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William Claiborne of Virginia

Secretary of State

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William Claiborne
of Virginia

With Some Account of his Pedigree

By

John Herbert Claiborne, M.D., F.A.C.S.

Member of the Society of the Cincinnati, State of Virginia
Member of the Society of Colonial Wars
Member of the Society of Foreign Wars
Late Captain 12th Regiment Infantry N.Y.V., etc.

With an Introduction by

John D. Lindsay

Of the New York Bar

Illustrated

G. P. Putnam's Sons
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1917

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by
JOHN HERBERT CLAIBORNE

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To

ENGLAND

THE FAIR MOTHER OF THE VIRILE MEN

WHO LAID THE FOUNDATIONS OF

CONSTITUTIONAL GOVERNMENT IN THE NEW WORLD

Justum tenacem propositi virum
Non civium ardor prava jubentium,
Non voltus instantis tyranni
Mente quatit solida, neque Auster.

Hor., *Carm.*, lib. iii., 3.

INTRODUCTION

UNTIL now the biography of William Claiborne, the foremost genius of early Virginia, has never been fully written. Religious, political, and even family prejudices have tended hitherto to give us distorted pictures of his life and public services. Dr. Claiborne's account of his distinguished ancestor's career shuns fable and corrects tradition. It is much more than a well-told story. It is a loyal acknowledgment of the qualities of a man who figured in many strong and pathetic episodes during a period of dramatic unrest.

If not the most conspicuous, Claiborne was beyond question the most powerful and influential, character in the days when the Old Dominion began its development, and throughout the stormy times which followed. His biographer makes his presentation with fidelity to a high ideal—the desire to offer no homage less pure or noble than the truth.

Mr. Claiborne, Captain, Colonel, Secretary, and eventually Parliamentary Commissioner, was a typical man of an age of universal curiosity and romantic aspiration. It may be that his appointment as Royal Surveyor was due to the intercession of his titled kinswoman, but he was already a man of proven talents when, at the age of thirty-four, he was selected to accompany Sir Francis Wyatt to Virginia in that capacity.

George Calvert, who had been one of the original associates of the London Company, and later of the governing council, and who four years subsequently was elevated to the Irish peerage with the title of Baron Baltimore, was then Secretary of State and one of James's most intimate favourites, owing doubtless to his Spanish leanings. While Claiborne was Protestant, Calvert was Catholic—a Catholic convert. Calvert well reflects the attitude of his period. It was a ruder and rougher age than our own, with hardly any perceptible advantages and much that gave life a gloomier tinge.

It is not imaginable to those who have not tried, to what labours an historian who would be exact is condemned. He must read all, good and bad, and remove a pile of rubbish before he can lay the foundation. Dr. Claiborne can never be

accused of failure to perform this duty, nor of undue dependence upon others, nor of writing up to a purpose. His object is to exhibit as faithfully as words can portray, the exact character of his ancestor, the circumstances which surrounded him, and the motives external and internal by which he was impelled in the drama in which he played so conspicuous a part.

The affections of a people for a locality depend upon the sense in which it is really and truly their home. Men will fight for their homes because without a home they and their families are turned shelterless adrift. But the idea of home is inseparably connected with the possession or permanent occupation of land. The fortunes of the owners of the soil of any country are bound up in the fortunes of the country to which they belong, and thus those nations have always been the most stable in which the land is most widely divided or where the largest number of people have a personal concern in it. Interest and natural feeling alike coincide to produce this effect.

The sovereigns of England are the head of the kingdom, and so by ancient prescription were the head and root from which all land tenures sprang. All undistributed land within the realm including confiscated and forfeited estates, as well as all

territory abroad acquired by conquest or discovery, were held of the Crown, by which is meant the sovereign in his political capacity.

The first English colonial charter was that granted in 1578 by Elizabeth to Sir Walter Raleigh's half-brother, Sir Humphrey Gilbert. Many of the articles of this remarkable instrument merit attention, unfolding as they do the ideas of that age with respect to the nature of such enterprises, but those only which deal with the property and political rights which were promised to the colonists are of present importance.

After authorizing Gilbert to discover and take possession of all remote and barbarous lands, unoccupied by any Christian prince or people, Elizabeth vested in Gilbert, his heirs and assigns forever, the full rights of property in the soil of those countries of which he might take possession, to be held of the Crown of England "by homage,"[1] on the payment of the fifth part of the gold or silver ore found there, with power to convey to settlers such portions of the lands as Gilbert might judge meet, according to the laws of England. She declared further that the settlers should have and enjoy all the privileges of free denizens and

[1] In feudal law an admission or acknowledgment to the lord of tenure under him.

natives of England. It will be noted that while Gilbert's patent was limitless as to the range of his explorations, provided he did not invade places already occupied by Christian nations, he acquired the ownership only of the places of which he actually took possession. The charter granted to Raleigh in 1584 still more distinctly specified lands "not actually possessed of any Christian prince, nor inhabited by Christian people."

Meanwhile, Elizabeth, formally protesting against the all-embracing claims asserted by Spain when that nation demanded the return of the treasures captured by Drake, held it to be a doctrine of public law that neither first discovery nor a mere assertion of right could prevail against occupation in fact. The Spaniards, she declared, had no right to regions which they had merely discovered or touched upon; the naming of rivers and capes or the building of huts was not enough. The same principle was recognized by James in the instructions given to the Virginia patentees in 1606, and fifteen years later Parliament, in denying the rights of Spain in America based on the gift of Pope Alexander VI., declared that possession and occupancy only, and not the mere fact of discovery, confer a good title. In 1604 James concluded a treaty with Spain which,

excluding English subjects from the Spanish West Indies and thus putting a damper on their buccaneering ardour, helped to spread the growing interest in American colonization. The original charter by which James conveyed to the London Company the vast territory then known as South Virginia provided for the conveyance of lands to the settlers by tenures as liberal as those prescribed in the Gilbert and Raleigh patents; and the later charters were equally explicit as well in this regard as in confirming the political rights and liberties of the settlers. But these were paper guarantees. No right of private property in land was in fact established in the colony until 1616. Up to that time the settlers were treated as vassals of the Company. The fields that were cleared were cultivated by their joint labour, the product being carried to common storehouses, whence it was distributed at appointed times. The houses in which they lived belonged to the Company. A community conducted on such a plan was not destined to prosper. There was no inducement to labour when there was no prospect of securing a permanent habitation and nothing to acquire except what was bestowed on all alike. The idle and incompetent shared equally with the prudent and attentive. The Company receiving the sole

benefit of labour, the exertions of even the most industrious settlers relaxed, and eventually matters came to such a pitch that the united industry of the colony did not accomplish in a week as much as might have been performed in a single day if each individual had laboured on his own account. At last Governor Dale, realizing the folly and stupidity of such a policy, divided a considerable portion of the land into parcels, one of which was given to each individual in full property. From that moment the colony began to advance. A different and better class of immigrants was attracted and a new spirit was at work in the Company. In 1619 the control of its affairs passed into the hands of men of wide social and political interest such as the Earl of Southampton, Nicholas Ferrar, and the unfortunate Sandys who was later committed to the Tower for no other reason than that his behaviour in Parliament was displeasing to the King, notwithstanding which Calvert brazenly declared that he had not been committed "for any parliamentary matter." Under them a constitution was granted in 1621 which became the model of all subsequent governments in the American colonies. Through their influence Sir Francis Wyatt was appointed Governor. Claiborne, bearing his commission as Royal Surveyor, was a

member of Wyatt's expedition which brought the constitution to Virginia. The same year Calvert established his settlement of Avalon in Newfoundland for which two years later James gave him a proprietary charter.

Under the new control the affairs of the colony were administered with great energy with a view to its ultimate prosperity, rather than an immediate profit, but just when the prospects seemed brightest the Spanish party, of which Calvert was always the ready instrument, prevailed. The government of Spain had watched the progress of the colony with jealous vigilance and determined to destroy it. A clique was formed against Southampton and Sandys. The former was in disgrace and Sandys had never been in favour. But unpopular as they were at court, they had friends in Parliament, so that on James's demand for the surrender of the Company's charter the Commons decided to inquire into the merits of the controversy, and the projected investigation was only abandoned when Calvert communicated to the House the King's pronouncement that the matter was one with which only his council was concerned. Although the Company was torn asunder by internal dissensions, Southampton and his supporters were still in control, so that James's

demand for the surrender of the charter was met by a refusal. Then followed the *quo warranto* proceedings and the extinction of the Company's political rights.

Broad-minded and public-spirited though the policy of the Company had been in its later days and little justice as there was in the judgment of the King's Bench, yet in all likelihood the colony was the gainer by its overthrow. The proclamation suspending the powers of the Company was dated July 15, 1624. Virginia thereupon became a royal province and Wyatt was continued as Governor under the King's commission instead of under that of the Company. On March 27th of the following year James closed by death his inglorious and oppressive reign. Calvert remained in office less than a year after Charles's accession. In 1627, finding his Newfoundland settlement not to his taste or expectations, he petitioned the King for a grant of land in Virginia. Despite Charles's admonition to give up his venture and return to England, he emigrated to that colony with his family. There the colonial government demanded that he take the oaths of supremacy and allegiance whereby he would have had to renounce the spiritual and ecclesiastical authority of the Pope. Calvert, now Lord Baltimore, as a peerwas exempt

from the second of these oaths, and it is doubtful whether any authority resident in Virginia had a right to administer either. Baltimore, instead of puttlng the question to a test, retired to England.

In 1631 Claiborne, having enlisted the requisite financial backing and doubtless suspecting Baltimore's intentions, obtained from Charles a license under the privy seal of Scotland empowering him and his associates "freely and without interruption to trade and traffic in or near those parts of America for which there is not already a patent granted to others for trade." By this time the trading post on Kent Island had become the nucleus of a flourishing settlement which in 1632 sent a Burgess to the General Assembly of Virginia. Claiborne had purchased it from the Indians and it had been highly cultivated. That these facts were fully known to Charles is made clear by the language of the Maryland charter which conveyed to Baltimore "a certain region in parts of America not yet cultivated and in possession of savages or barbarians having no knowledge of the Divine Being." Moreover while Baltimore was authorized as Lord Proprietor to make ordinances agreeable to reason and the laws of England, he was forbidden to extend them to the life or estate of

any emigrant. The Calverts, despite their intimacy with Sir Francis Windebank the new Secretary of State and with the Earl of Portland and Lord Cottington, were not to be permitted to despoil the Virginians of any of the territory they had settled. Kent Island seemed safe until the Virginians were undeceived by Calvert's open avowal of his claim to it. Claiborne and the whole colony were naturally incensed at this, and their rage was increased when Claiborne's second protest and that of the London Company were referred to the Star Chamber of which Windebank and his friends in the Council were members. The decision of that ever-to-be-abhorred tribunal was that Baltimore should be left to his charter and the Virginians to the course of the law. Thus matters rested until Calvert arrived at Point Comfort in 1634.

From this point on Dr. Claiborne takes the narrative in hand still more vigorously and presents the facts in quick and dramatic succession. He refers in just and condemnatory terms to the treachery of George Evelin through which Kent Island was surrendered to Baltimore's ruffians, and his treatment of the void Bill of Attainder shows it to have been a piece of contemptible revenge. Within two weeks after the passage of

the bill the Lords Commissioners rendered their decision in favour of Baltimore. Charles, whose every act had so far indicated his sympathy with Claiborne and who showed his displeasure at the unjust decision of the Commissioners, abandoned Claiborne to his enemies after Baltimore had waited on him and had given him, as Baltimore said he would, "perfect satisfaction." It would be interesting to know what the nature of this "perfect satisfaction" was.

Virginia has been described as a cavalier colony connected by origin with the class of great land owners. As a matter of fact the settlers mostly came from the upper middle class and the smaller landed gentry, with a mixture of well-to-do tradesmen. This being so, it was fairly certain that in the Civil War there would be nothing like unanimity of sympathy amongst the inhabitants; and so it proved. But though men differed, few held their opinions with tenacity; Claiborne and a few others were the exceptions.

The action of Virginia at the outset of the war was determined by Governor Berkeley, a frank, strenuous, blustering Cavalier. An act was passed declaring that all commissions given by Charles were valid and making it penal to express sympathy with the Parliament or disapproval of

the crown; but the Royalist party collapsed at the first show of force and Claiborne and his followers who were vastly in the majority took matters in hand.

Dr. Claiborne gives the just value to the Ingle-Claiborne invasion of Maryland. He points out that authorities agree that Claiborne simply made use of Ingle to further his ends, that the association was incidental, and that there was no collusion between the two men. Many have described Claiborne's part in this affair as that of a beaten man seeking revenge. There is no support for any such theory. Claiborne was a Parliament man and had he done less he would have failed to perform his full duty to his government. Dr. Claiborne points out also that the easy terms given to the Virginia Colony on its surrender to the parliamentary commissioners were largely the result, probably, of Claiborne's influence, and he demonstrates with clearness that Claiborne's part in the reduction of Maryland was not inspired by personal revenge or malice. In support of his convictions, it is worthy of note that all the acts of the commissioners in the reduction of that province were approved by the Commonwealth. He cites Latané and Fiske to support his views.

In conclusion it is well to refer at some length

to Claiborne's petition to Charles II. for the restoration of Kent Island, inasmuch as that final petition, particularly the wording of it, has been used by a recent writer as the text for much animadversion and unintelligent criticism.

Claiborne's petition to Charles II. for the restoration of Kent Island has been called a servile paper by those ignorant of the forms and ceremonies then prevalent. It was in truth a pathetic document. But let us remember that Claiborne was at the time a very old man and that the spoliation of the property he cherished more highly than anything he had ever possessed had been rankling in his bosom for many years. Small wonder he worded his petition in plaintive language. But that was merely the custom of the age. Let us compare it with the remonstrance of the City of London against Charles's levy of ship-money.

Your petitioners [said the infuriated corporation] do in all submissive humbleness and with acknowledgement of your sacred Majesty's many favours unto your said city inform your Majesty that they conceive that by ancient privileges, grants, and acts of parliament (which they are ready humbly to show forth) they are exempt and are to be freed from that charge, and do most humbly pray that your Majesty will be graciously pleased, that the petitioners, with

your princely grace and favour, may enjoy the said privileges and exemptions, and be freed from providing the said ships and provisions. And they shall pray, etc.

Was there more spirit in this document than in Claiborne's bold assertion that Charles's father had deliberately condoned, if indeed he had not in the end connived at it, the illegal expulsion of Claiborne from his estate?

Though the faithless monarch turned a deaf ear to his appeal, Claiborne's countrymen were not remiss in making substantial acknowledgment of his long and faithful services in their interest, and in undoing, so far as they could, the great wrong that had been done him. The grants by which he was compensated by Virginia comprised over twenty thousand acres of the richest lands in the province.

In view of the facts as set forth by the author of this narrative, it is difficult to understand the abuse and condemnation which have been visited upon Claiborne by historians. A man who was honoured by all the sovereigns under whom he lived, by the Commonwealth, even by his ancient enemy Berkeley himself and by his fellow Virginians, who received the highest gift of state except that of the governorship and held it for

years, who waged the first successful war against the Indians in the early days of the colony, and who was later appointed General-in-Chief of all the colonial forces, cannot have merited such obloquy. The narrative should conclusively settle the opinion of posterity concerning the character, deeds, and achievements of William Claiborne.

JOHN D. LINDSAY.

NEW YORK, October, 1917.

PREFACE

THE incidents with which this book deals are well known in the history of the early relations between Virginia and Maryland. The literature touching on the subject is voluminous. The two main actors in the drama are Lord Baltimore and William Claiborne of Virginia. Until 1860, practically one opinion was held concerning William Claiborne and the contention between him and Lord Baltimore for the possession of Kent Island, and the sweeping condemnation which was heaped upon Claiborne by reason of his acts and attitude toward Baltimore and the Maryland Government remained unchallenged until about that date. Since then and more recently, several writers have laid aside prejudice and rendered him some measure of justice. It is the author's purpose to show that William Claiborne's claim to the possession of Kent Island was just and unequivocal; that at no time was he subject to Lord Baltimore's jurisdiction; that Kent Island itself, up to the time of the decision of the

Lords Commissioners in 1638, was an integral part of Virginia under the dominion of the King and not under the sovereignty of Baltimore; that the first act of aggression between the two protagonists was committed by the accredited agents of Baltimore in the seizure of Claiborne's ship *The Long Tail* in April, 1635; that since Claiborne's right to trade in those waters (without molestation or stoppage), in which the seizure occurred, had been given expressly and emphatically by the King in a Royal letter and that since at that time the King's word was law, the act of seizure of *The Long Tail* by Baltimore's agents was unlawful and must be classed as piracy; that the subsequent engagement between Claiborne's ship and those of Baltimore was an act of reprisal in what may be described as civil war between Maryland and Virginia; that therefore, the onus of this condition of affairs lay upon Baltimore and not upon Claiborne; that the Bill of Attainder passed by the Maryland Assembly in 1637 was iniquitous, illegal, ineffective, and incompetent; that the right to pass a Bill of Attainder was vested in the English Parliament alone and could not under any circumstances be transmitted to or assumed by any colonial legislative body such as the Assembly of Maryland which passed it; that

the seizure and confiscation of all of Claiborne's property by reason of that Act was contrary to law and was a high-handed outrage against English rights; that by reason of this he was denounced as rebel, pirate, and murderer; that William Claiborne was at no time a rebel to Lord Baltimore; that in the Claiborne–Ingle invasion of Maryland, he was simply an invading enemy and that in the reduction of Maryland as one of the Parliamentary Commissioners, he was the accredited agent of the *de facto* Government of England.

Considerable space has been given to analysis of Claiborne's character and acts, and the refutation of the accusations and epithets heaped upon him.

The author is indebted to his friend Mr. John D. Lindsay for his masterly definition of the meaning and character of the Act in Parliamentary law known as the Bill of Attainder whereby the total incompetency and ineffectiveness of the one passed by the Maryland Assembly is demonstrated, likewise for the introduction which he has written, and for many other suggestions in the preparation of this work. He feels himself also indebted to Mr. DeCourcy Thom of Maryland, a personal friend of his boyhood, for encouragement, sympathy, and assistance.

A certain philosopher has said "a man is but the sum of his ancestors." Perhaps it may more properly be said, a man is the sum of his ancestors plus his environment plus his intellectual processes plus his impulses plus his power of inhibition. For this reason in part, this sketch of William Claiborne has been preceded by some account of his pedigree to show what manner of men went before him, while his own acts are set forth in the succeeding pages.

Although it is not strictly speaking within the author's purpose to compare the ultimate personal equations of Baltimore and Claiborne, he feels called upon to point out that a certain amount of historical justice has been rendered by the great leveller—Time; that whereas, the name of Claiborne has persisted throughout the history of Virginia and has been and is still borne by men of honour and ability who have rendered service in the upbuilding of the republic, Baltimore's line has passed forever from the earth, unhappily in poverty and shame, and his patronymic from amongst those who are still adorning the fair name of Maryland. The author is not unaware that he is setting forth bold and radical views in contravention of those who have written before him, but he is compelled to do so from a study of the facts,

and he feels that the truth, as he sees it, should be made known to those who bear the name and inherit the blood of William Claiborne.

While many authorities have been consulted in the preparation of these pages the author has followed in the main Latané and also Fiske. He has attempted to arrange the sequence of events with continuity so that the thread of the narrative may be more easily held in the mind. He believes that brevity is an element in clarity.

The account of the pedigree of William Claiborne is taken almost bodily from *Irish Pedigrees* by John O'Hart, fourth edition, volume ii., Benziger Bros., New York, 1888, likewise to a large extent, the description of Cliburn Hall and the Manor. The descent of William Claiborne from Duncan and Ethelred is taken from *Americans of Royal Descent* by Charles H. Browning; his descent, from Bardolph, from *Fitz Randolph Traditions—A Story of a Thousand Years* by L. V. F. Randolph, life member of the New Jersey Historical Society, 1907, under the auspices of which the book was published.

J. H. C.

New York, August, 1917.

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William Claiborne of Virginia

CHAPTER I

THE DESCENT OF WILLIAM CLAIBORNE FROM BARDOLPH[1]

COMMENCING with Bardolph, the common progenitor of several noble families of the north, the descent is as follows:

1. Bardolph,[2] Lord of Ravenswath and other manors in Richmondshire, was a great landowner in Yorkshire, who gave a carucate of land and the churches of Patrick Brampton and Ravenswath in pure alms to the Abbey of St. Mary's at York.

[1] Quoted from O'Hart's *Irish Pedigrees*.

[2] *Bardolph:* Harrison (see the *History of Yorkshire*) deduces Bardolph and his brother Bodin from Thorfin, *fil. Cospatric de Ravenswet et Dalton* in Yorkshire, temp. Canute; while Watson makes Bardolph the son-in-law, and *not* the son of Thorfin. Bardolph is "said to be of the family of the Earls of Richmond." See Gale's *Honoris de Richmond*, and Whittaker's *Richmondshire*. Burke acknowledges that "the earlier generations of the Earls of Richmond are very conflicting." The families of Craw-

In his old age, when weary of the world and its trouble, he became a monk, and retired to the Abbey, of which he had been a benefactor. (See Dugdale's and Burke's *Extinct Peerage.*) He was succeeded by his son and heir:

2. Akaris, or Acarius FitzBardolph, who founded the Abbey of Fors (5 Stephen, A.D. 1140) and granted the original site of Jervaulx to the Suvignian monks at York. He also gave a charter to the Priory of St. Andrews, and lands and tenths in Rafenswad (Ravenswath), to which gifts "Hen. fit. Hervei," and Conan d'Ask were witnesses. (Marrig. Charters, *Coll. Top. et Genealogy*, iii., 114.) He died, A.D. 1161, leaving two sons:

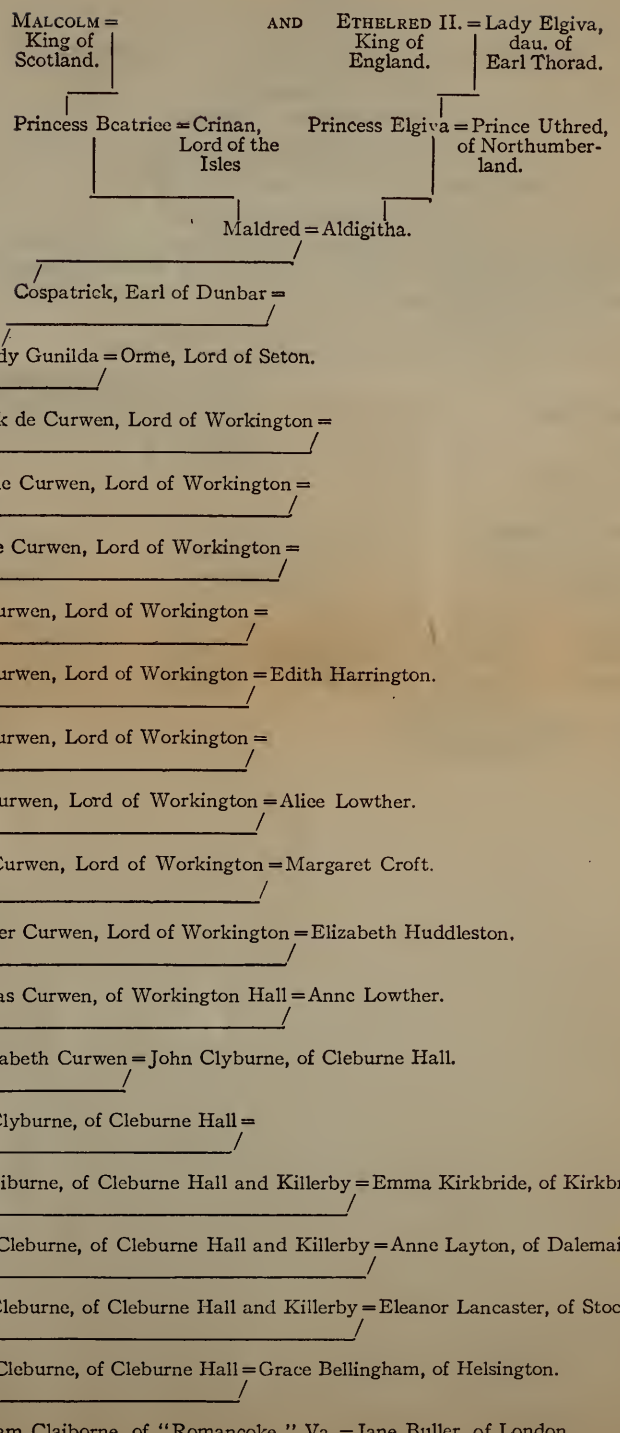
I. Herveus, of whom presently.
II. Walter.

3. Hervey FitzAkaris (A.D. 1165, ob. 1182), "a noble and good knight," who consented that

---

ford, L'Estrange, and FitzAllan of Bedale also derive from Bretin Earls; and the FitzHughes, Askews, and others, from Bardolph. Whittaker says, "Askew, Lincolnshire, was granted after 1086 by Alan, Earl of Richmond, to Bardolph, his brother, father of Askaris, ancestor of the Barons FitzHugh of Ravensworth. Henry FitzAskew granted tithes of Askew to Marrig, (Burton, *Monast. Ebor.*, 269.) Randolph FitzHenry had Henry and Adam, between whom Askew was divided. Adam assumed the name of Askew." *Hist. Richmond;* and *The Norman People*, 144.

DESCENT OF COL. WILLIAM CLAIBORNE FROM



THE DESCENT OF BARDOLPH FROM ROLF, THE NORSEMAN

ROLF
The Norseman, who conquered Normandy in the year 912 A.D.

WILLIAM "LONGSWORD"
Duke of Normandy. Died 943.

RICHARD, surnamed "THE FEARLESS"
Reigned in Normandy fifty years. Died 996.

RICHARD, surnamed "THE GOOD"
Reigned in Normandy thirty years. Died 1026. Richard's sister Emma married in the year 1002, Aethelred, the Saxon King of England. After his death she married the Danish King Cnut. His children were Richard, Duke of Normandy, whose wife was Judith, and a daughter Avicia, who married Geoffrey, Duke of Brittany.

RICHARD
Duke of Normandy, whose wife was Judith.

ROBERT—HARLOTTA

WILLIAM THE CONQUEROR
(born 1027), married Matilda
Their children

1 ADELA

2 ROBERT
Duke of Normandy.

4 HENRY I.
King of England.

3 WILLIAM II.
King of England.

5 CONSTANCE
Married Alan Fergeant, son of Hoel.

GEOFFREY, otherwise GALFRIDUS
Duke of Brittany, whose wife was Avicia, sister of Richard, Duke of Normandy.

1 ALAN
Whose wife was Bertha.
Their children

1 AVICIA
Who married Hoel

2 CONAN
Duke of Brittany.

2 EUDO
Whose wife was Agnes.
Their sons were

1 STEPHEN

3 ALAN RUFUS

5 BODIN

2 ALAN NIGER

4 GEOFFREY

6 RIBALD

7 *Bardolph*

Conan, Earl of Richmond, should translate the abbey of charity to East Wilton, and place it on the banks of the river Jore, from which it was called Jorevaulx. He was a witness with his brother Walter to a charter of Conan IV., Duke of Brittany and Earl of Richmond (11 Hen. II., A.D. 1165); and about the same time he "gave his ninth sheaf of corn which grew on his lands in Askew, Brompton, Lemingford, and Ravenswet to the Priory of Maryke in the Deanery of Richmond" (Burton, *Monast., Ebor.*, p. 357). He died, A.D. 1182, leaving three sons:

I. Henry FitzHervey (ob. 1201), who mar. Alice, daughter of Randolph FitzWalter de Greystocke (ob. 12 John, 1211), from whom descended the Barons FitzHugh. He witnessed a charter of Duke Conan, in 1165, one of Conan de Asch, in 1196; and was a witness, with his brother Alan, to the charters of Peter FitzThornfinn, and Gilbert FitzAlan, 1196–8.
II. Richard.
III. Alan, of whom presently.

4. Alan, dictus "Cleburne" (Le Neve MSS., iii., 114), youngest son of Hervey FitzAkaris, son of Bardolph, "was a witness with his brother Henry ('Henrico fit. Hervei, Alan fre. ei, Conan d'Aske,' and others) to charters of Gilbert Fitz-

Alan, Alan FitzAdam, and Peter FitzThorfinn, to Marrig Abbey, co. York," c. 1188–98 (*Coll. Top. et Genealogy*, iii., 114). Richard Hervei, who witnessed a charter of Ada of Kirby Sleeth (c. 1196), and "Rich. de Hervei, whose daughter Galiene gave lands in Blencogo to Abbey of Holm Cultram, for maintenance of infirm poor" (N. and B., *Hist. West.*, i., 172–89; Hutch., *Hist. Cumb.*, ii., 331), are probably identical with Richard the second son of this Hervey. Alan, the third and youngest son, received (temp. John) a moiety of the manor of Cliburn, co. Westmoreland; and a fine was paid for the alienation of lands there in 1215: "Fin. 16 Joan. m.d. de Terras in Cleburn," S. V. Lanercost. (See Tanner's *Notitia;* Hutchinson's *Hist. Cumb.*, i., 58.) This manor gave to Alan FitzHervey "a local habitation and a name," but "when a man takes his surname from his possessions or residences, it is very hard to say at which particular point the personal designation passes into the hereditary surname" (Freeman, *Norm. Conq.*, v., 379). Prior to the *Domesday* and for nearly two centuries after, there were no fixed surnames; the eldest son took the Christian name of the father, while the youngest assumed the name of his own manor; hence "Alan"

is found in the charters[1] of that period, although the surname must also have been used, for Palgrave states that "Idonea, daughter of Allen Clibburne, married Walter, the fourth son of William Tankard, the Steward of Knaresborough, and had issue George Tankard, who died Sine prole, temp. Henry III." (1216–72). (See *Baronetage*, iii., 387; *English Baronage*, 1741.)

5. Hervey (in Bas Breton, "Haerve" or "Hoerve," from old German "Hervey," means *strong in war*) held lands and tenements in Cliburne, Clifton, and Milkanthorpe, by knight service, *tempore*, Hen. III., and Edw. I. (1216–72).

There was also a Roland FitzHervy (temp. Hen. III.) who married Alice de Lexington and held "Sutton upon Trent."

Hervey de Cliburne was succeeded by his son and heir Geoffrey (Inq. P. M. 8 Edw. II., 1315).

6. Geoffrey[2] FitzHervey (de Cleburne), whose heir with Gilbert d'Engayne of Cliburne-Clifton,

[1] *Charters:* Lord Lindsey says: "In the eleventh and twelfth centuries the Charters are the only evidence to be depended upon, as history or pedigrees are unsatisfactory or wanting. After this we have the Inquisitions Post Mortem and other authentic records." See *Lives of the Lindseys.*

[2] *Geoffrey:* This Geoffrey had a brother Nicholas de Cliburne, who was Sheriff of Westmoreland, 26, 28, 31, 32, and 33 Edw. I. (1295–1309). Deputy Keeper's Roll, at the Record Office, London; also *Cumb. Westm. Transactions*, vol. iv., p. 294.

and others, "held divers tenements in Cliburne, Louther, Clifton, and Milkanthorpe, by service" (Escheats, 7 Edw. II., 1315). At another inquisition, temp. Edw. II., "Walter de Tylin, John de Staffel, and Robert de Sowerley [as trustees, probably, in a settlement] held a moiety of Cliburne by cornage" (Collins's *Peerage*, p. 428). The heirs of Geoffrey, son of Hervey, held by these trustees (by knight service of the king), until Robert de Cleburne, one of the said heirs, became of age, and succeeded to the moiety of Cliburn-Hervey.

7. Sir Robert,[1] lord of the manor of Cliburn-Hervey, was a person of some distinction, temp. Edw. III., and was knight of the Shire of Westmoreland, 7 and 10 Rich. II., 1384–7 (*Hist. West.*, App. i., 459). In 1336 (9 Edw. III.), he was "a witness with Sir Hugh de Louther to settlement by Sir Walter Strickland, of the manor of Hackthorp, upon his sons, Thomas, John, and Ralf Strickland" (*Hist. West.*, ii., 92). In 1356 "he held lands in Ireland," but he apparently made no settlement there. In right of his wife, Margaret, he held the lands and was lord of the

[1] *Sir Robert:* The knighthood of the age of chivalry was a very different honour from this modern dignity; for in the thirteenth and fifteenth centuries it had precedence of Peerage.

manors of Bampton, of Cundale, Bampton Patryke, and Knipe Patric, in Westmoreland. (Inq. Post Mort., 43 Edw. III.; 15 Rich. II., 1370–92.)

He married Margaret, daughter and co-heir of Henry de Cundale[1] and Kyne, one of the Drengi of Westmoreland, who held their lands before the Conquest, and were permitted to retain them. This Henry de Cundale was in descent from that Henry, lord of Cundale, who, temp. Hen. II. (1154), among other principal men of note, was a witness to a compromise between the Abbot of Byland concerning the manor of Bleaton, and in 13 John (1212) was a witness to a grant of Robert de Vipont to Shapp Abbey; and who in 1201 (Oblata Roll, 2 John) made a fine with the king not to go with him to Normandy. Sir Robert had issue one son, John, who, dying at an early age, was succeeded by his second son, John de Clybourne.

[1] *Cundale:* Bampton Hall (temp. Hen. III., 1216–72) was the seat of Henry de Cundale (name derived from "Cundale," in York), a family of great consideration, who continued here till Edw. II. (1307–27), when their property went to the Cleburns.

Thornthwaite Hall was the mansion house of Bampton Patric, called after Patric de Culwen, temp. Hen. II., 1154.

"Ralf de Cundale was fined 40 marks." Fines in Exchequer, 22 Hen. II., 1176. The battle of Otterburn was fought 1383.

Alice, dau. of Thomas Cleburne, temp. Edw. III., married Jno. Wray, from whom the *Wrays* of Richmond are descended.

8. John de Cleburne (who died *vita patris*) left two sons:

I. Roland.
II. John.

His widow, Margaret (who married for her second husband John de Wathecoppe of Warcupp), "held the manor of Cliburn-Hervey for Rowland, son and heir of the said John Cleburne and Margaret" (Inq. P. M., 15 Rich. II., 1392; *Hist. West.*, i., 459). Rowland dying young, his lands passed to his brother John.

9. John, second son of John de *Clyborne* and Margaret, his wife, held Cleburn-Hervy in 1422, 9 Hen. V.: "Johannes Cliburne pro manerio de Cleburn-Hervy, xvi. s. ixd. (Har. I.) MS. 628, ff. 228b). In 1423, he was lord of the manors of Cliburn-Hervey and Cliburn-Tailbois (the two moieties having been united after the death of John, only son and heir of Robert de Franceys of Cleburne, who married Elizabeth, daughter and heir of the last Walter de Tailbois: Dugd. MS.); and also "held the manors of Bampton Patrick, Bampton Cundale, and Knype Patric, by cornage" (Inq. P. M. 10 Hen. V., 1423; *Hist. West.*, 257, I., 466). He was succeeded by his son and heir:

10. Rowland, son and heir of John de Cleburn, was "lord of the manors of Cliburn-Hervey and Tailbois, and held Hampton-Cundale and Knipe, by homage, fealty and cornage" (Inq. P. M. 31, Hen. VI., 1452). He is scarcely mentioned in the local records, though he was probably with Clifford at Towton on that fatal Palm Sunday, 24th March, 1461. He was just and considerate of his tenants, remitted their "gressums"; and by him the last of his "Villeins in gross" was sold free. In 1456 he was appointed "one of the jurors upon the Inquisition, after the death of Thomas Lord Clifford" (34 Hen. VI.; *Hist. West.*, i., 459), and also "held the same which heretofore, as the Inquisition set forth, were held by Ralph de Cundale (*Hist. West.*, i., 466-70). He was succeded by his son and heir:

11. John, son of Rowland Cleburne, married Elizabeth, daughter of Sir Thos. Curwen of Workington Hall. This was considered a great alliance, for Elizabeth's blood was "darkly, deeply, beautifully blue"; her ancestor Orme having married Gunilda, daughter of "Cospatric the Great," first Earl of Dunbar and Northumberland, whose father Maldred was younger brother of the "Gracious Duncan, murdered by Macbeth, whose grandmother was Elgira, daughter of the Saxon

King Ethelred II., called the "unready." (Jackson's *Curwens of Workington;* Symeon of Durham, ii., 307; Freeman's *Norm. Conq.*, iv., 89.) This John was lord of the manors of Cleburn, and held Bampton-Cundale, of Henry Lord Clifford, by homage, fealty, and scutage, when "scutage" runs at £10 10s.; when more, more; when less, less; and the cornage of 15s. 3d. (Inq. Post Mort. 19 Hen. VII.). Having escaped the bloody fields of Barnet, Tewksbury, and Bosworth, he died (from injuries received in a skirmish at Kirtlemore, on St. Magdalen's day, 22d July, 1484), on the 8th Aug., 1489 (Inq. P. M. 4 Hen. VII.), and was succeeded by his son and heir:

12. Thomas, of Cliburne Hall, born 1467, for at an Inquisition held, 19 Hen. VII. (1504), it was found that "John Clybourne, his father, died 8th August, 1489, and that Thomas Clyborne, his son and heir, was then 22 years of age" (*Hist. West.*, i., 467). He held his manor of Bampton, of Henry Lord Clifford, by homage, fealty, and scutage (Inq. Post Mort., 18 Hen. VIII., 1527), and was assessed for non-payment of his dues on this manor, due the Diocese of Carlisle, 5 Hen. VIII. (*Valor Ecclesiasticus*, p. 294). He neglected his estate, engaged in many visionary schemes, and became so wild, reckless, and extravagant

that in Nov., 1512, "he, with Henry Lord Clifford and others, were proceeded against for debts due by them to the king" (Letters and Papers, Hen. VIII., vol. i., p. 435). He was succeeded by his son and heir:

13. Robert, of Cliburne, co. Westmoreland, and of Killerby, near Catterick, co. York, married Emma, dau. and co-heiress of George Kirkbride of Kirkbride (8th in descent from Adam, son of Odard de Logis, second Baron of Wigton, who granted Kirkbride to his second son Adam, temp. John (1199–1216). He was of a languid disposition and feeble body, which unfitted him for active exertion in the field. Though an advocate of the Catholic party, he did not join in "The Pilgrimage of Grace," in 1536, nor did he take much part in county affairs. In 1531–53 (22–24 Hen. VIII.) he was chosen "an arbitrator in a case between Guy and Hugh Machell of Crackenthorpe" (*Hist. West.*, i., 358–359); and, in 1543, when called upon by the Warden of the West Marches, he supplied from his own retainers "six horse and ten foot soldiers for service on the Borders" (List of principal Gentlemen subject to Border Service, *Hist. West.*, i., 41). By his wife Emma (living, A.D. 1482), he left one son and a daughter:

I. Edmond, of whom presently.
II. Eleanor, married to Richard Kirkbride, of Ellerton in Hesket, co. Cumberland, whose great-grandson "Bernard Kirkbride died s. p. in 1677."

14. Edmund or Edward, son and heir of Robert of Killerby and Cliburne, married Ann, daughter of Layton of Dalmaine (of an ancient family in Cumberlandshire), and had issue:

I. Richard, of whom presently.
II. Thomas, of Hay-Close, co. Cumberland, who married Elizabeth Thwaites, 25th Sept., 1594. He was of a hot and peppery disposition, and in 1589 became involved in a tedious lawsuit with "Sir Wymond Cary, the Queen's Lessee, about certain lands, messuages, and Courts-Baron in Snettisham manor, co. Norfolk" (Cal. Ducat. Lancaster, 31 Eliz.); and had another suit in Chancery with "Arthur Clarke about the manor of Hemyngford-Grey, county Huntingdon" (Chan. Provc. Eliz., pp. 159–62).
III. John.
IV. William (Quaere, Vicar of Nidd, and Dean of Kildare, 1626).
V. Elizabeth, married to John Thwaite of Marston.

15. Richard, "the martyr," of Killerby, co. York, and of Cliburne, co. Westmoreland; son and heir of Edmund; was a proud, imperious,

passionate man, regarded by some as an "intolerant bigot." Right royally proud he well might be, for through his great-great-grandmother Elizabeth Curwen, he was descended from that great Cospatric "who sprang," says Freeman, "from the noblest blood of Northumberland, and even of the kingly blood of Wessex" (*Norm. Conq.*, iv., 89).

He was a devoted adherent of the Church of Rome, spent much of his early life in travel; and was probably engaged in some secret negotiations with the French Court, as Lord Gray in his letter to the Privy Council, dated 7th May, 1555, says: "Mr. Clyburn has been a long time in France, and brings important information" (State Papers, 1553–8). Though warned by his kinsman Sir Henry Curwen (who in 1568 received and hospitably entertained his fifth cousin, the unfortunate Queen Mary, when she arrived at Workington in her flight from Scotland) to "avoid the numerous plots" at this period, Cleburne engaged in the scheme to release the Scottish Queen, and place her at the head of the "Rising of the North." How much he was involved in this plot will never be known; but no doubt he and the Lowthers were "up to the very hilt in treason." His brother Thomas, a page in the service of his kinsman, Sir

Richard Lowther (the custodian of Mary), doubtless kept him well informed of the secret machinations of the gentry of the north, and he was deep in the counsels of the shrewd and long-headed Gerald Lowther, whom he concealed at Cliburn when pursued by the Warden of the West Marches. Among the State Papers in London is a letter from Richard Lowther, dated 13th Nov., 1569, addressed to the Earl of Westmoreland, alluding to this wily Gerard, and indicating how deeply they were in the plot. "Appoint me one day," he says, "and I will meet you with four good horses either at Derby, Burton, or Tutbury, there to perform with the foremost man, or die. To the furtherance thereof, Lord Wharton and my brother will join." On the 14th of May, the Earls made their famous entry into Durham, and, on the 23d of the same month, Mary was removed further south, out of reach of the plotters. On the 28th January following, Sir Francis Leeke wrote to Cecil: "Before receipt of yours for apprehension of Gerald Lowther and Richard Clyburne of Clyburne, gentlemen, we had examined some of their servants, John Craggs, and Thomas Clyburne (who had come to town with three geldings of Lowther), about the said Gerard's movements"; and winds up by saying, "I send this letter FOR

LIFE, that order may be taken for Lowther before he has fled far, as he is not well horsed." Amid all these troubles, Richard Cleburne was engaged in rebuilding his Hall in the Tudor style. Over the arched doorway he inserted an armorial slab with a curious rhyming inscription in old English characters, now so weatherworn as to be scarcely decipherable (Taylor's *Halls of West.*, p. 256; *Hist. West.*, i., 460):

"Rychard . Clebur . thus . they me . cawl .
Wch . in my . tyme . hath . bealded . ys . hall .
The . yeare . of . our . Lord . God . who . lyst .
For . to . never . 1567."

On each side of this Tudor archway are two heater-shaped shields containing the arms of Cleburne and Kirkbride, and immediately over the inscription a quartered shield; 1st and 4th, arg. 3 chevronels braced a chief sable (for Cleborne); 2d and 3d, arg. a cross engrailed vert (for Kirkbride). The extravagance entailed by the rebuilding of the Hall and other improvements led to the mortgage and sale of Bampton-Cundale (in which parish is the beautiful Haweswater Lake) and of other fair manors which sadly impoverished the Cliburns.

In 1571 he was again mixed up with the Low-

thers in a plot in which the Duke of Norfolk was a principal, and in which the latter lost his head, when all these ambitious schemes came to an untimely end. Full of intemperate zeal for his religion, Cleburne continued to make himself obnoxious to Rokeby Walsingham, and Leicester, "who thought it pious merit to betray and ensnare those eminent persons who were not yet quite weaned from the Church of Rome" (*Hist. Cumb.*, i., 387). By them he was closely watched and persecuted, and was several times indicted and imprisoned in the "Fleet." Accused by Rokeby[1] of being a "Recusant," and of being "carried away with blind zeal to favour and hold with the Romish Church" (State Papers, 1581–90, vol. clxxxiii., 207); and harassed by his affairs, his health gave way, and in 1577 he was obliged to spend six months at Bath. In October, 1584, he was so completely broken down that Rokeby declared him to be "aged, infirm, and sickly," and again "he had permission to repair to Bath, where he remained from 30th January to the 1st May, 1586, on account of his health" (State Papers, p. 207–303). By his wife Eleanor, granddaughter of Nicholas Harrington, of Enbarry Hall, and daughter of

[1] *Rokeby:* Anthony Rokeby the "spy" (in 1568) was set to watch his movements.

Launcelot Lancaster, of Sockbridge and Barton (eighth in descent from Roger of Barton, ob. 1290, who Nicholas says was "a brother of the half blood to William de Lancaster, last Baron of Kendal, ob. 1246, to whom the said William gave Barton and Patterdale, styling him in his charter 'Rogero fratre meo'"—MSS., Denton and Lancaster Pedigree), he had issue two sons and seven daughters:

I. Edmund, of whom presently.[1]

[1] Some confusion exists in regard to the title of Edmund Cliburne, the father of William Claiborne. He has been referred to as Sir Edmund Cliburne by a number of writers. The only knight who bore the title of Sir in the entire family, according to O'Hart, was Sir Robert de Cliburn, the seventh from Bardolph, in the time of Edward III.; he was known as "Knight of the Shire of Westmoreland." That title of Sir was not an hereditary one, and could not be transmitted. It was won on the field of battle or through service to the Crown, and may truthfully be said to have been the greatest honour a gentleman could win. Sir Robert, like all the rest of the family who held Cliburn-Hervey, and the other possessions of the family, was known as Lord of the Manors of Cliburne, etc., but this title was not one of knighthood; it was one of courtesy by reason of possessions.

The transmitted title of knighthood arose much later. Edmund Cliburne, the father of William, was simply known as heir of Richard Cliburne and Lord of the Manors of Cliburne and Killerby.

Admiral C. J. Cleborne was accustomed to tell the writer that the family of Cliburne belonged simply to the landed gentry, and was classed amongst the *Barones minores*, as opposed to the *Barones majores*, amongst whom were the Earls and Dukes; in short, they were simply Gentlemen.

II. Gerard, b. 5th Feb., 1566.
III. Agnes, b. 4th July, 1570.
IV. Agnes, born 6th May, 1571; married Humphry Wharton, of Gilling, co. York.
V. Eleanor.
VI. Barbara, mar. Thomas Banks, of Whixley, co. York.
VII. Jane, b. 14th Oct., 1568.
VIII. Ann.
IX. Emma.

16. Edmund: eldest son and heir of Richard, lord of the manors of Cliburne and Killerby, married 1st Sept., 1576, Grace, second dau. of Sir Alan Bellingham, of Helsington and Levins, the famous Treasurer of Berwick and Deputy Warden of the Marches, who was rewarded by Henry VIII. with a grant of the Barony of Kendal, called the "Lumley Fee." This Sir Alan married Dorothy, dau. of Thomas Sandford of Askam, cousin of Anne, Countess of Pembroke and Dorset, through whose influence with her husband—a prominent member of the Virginia Company—William Cleborne was made Surveyor, and Secre-

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It will be remembered that the Black Prince, for example, won the golden spurs of knighthood at the battle of Poitiers. Neither King nor Prince could wear them until they were won. Knighthood was an institution which marked the noblest democracy of all time—the democracy of self-sacrifice, courage, and service. (J. H. C.)

tary of State for that Colony, in 1626. Edmund was devoted to the pleasures of the chase and passed most of his time at Killerby, preferring the Yorkshire dales to the cooler breezes of Westmoreland. He had a grant from the Crown, of the Rectory and Parsonage of Bampton, Westmoreland, and also had some interest in the Rectories of Barton and Shelston. There seems to have been some trouble about Bampton, for he had a suit-at-law with Sir Rowland Hunter (clerk), defendant, about a claim on that Rectory which had been granted to Cleburne by letters patent (see Chancery Proceedings, Eliz., i., 151). By his wife Grace Bellingham (born 1558, ob. 1594), who had for her second husband, Gerard, second son of Sir Richard Lowther, he had:

I. Thomas, of whom presently.
II. William, Secretary of Virginia.

This pedigree has been carried only as far as Col. William Claiborne, but it seems fitting that these notes should make some reference to the successors of the father of Colonel William at Cliburn Hall.

William Claiborne was the second son of Edmund; his younger brother was Robert; he

likewise had two sisters, Agnes and Dorothy, the latter "somewhat of a shrew."

Thomas, who succeeded Edmund, was born 1580 and died 1640. He was the seventeenth in line from Bardolph, but the fourteenth Lord of the Manor, counting from Alan, the first.

He is said to have been indolent, shy, and melancholy. He found his estates much encumbered and was forced to mortgage his lands. Thomas lived a retired and quiet life at Cliburn and Killerby, cultivating and improving his lands. He took but little interest in affairs of state, and lived in contentment with his loving wife, Frances, the daughter of Sir Richard Lowther, already referred to.

Thomas had three sons, Edmund, Richard, and William. William settled in Ireland and became the founder of the Ballycullitan Castle Cliburns. He was known as "Wise William of Ciallmahr." He went to Ireland with his uncle, Sir Gerard Lowther, where he became known far and wide for his humanitarian qualities, as the arbitrator of the disputes of his neighbours and as the friend and adviser of the poor. He purchased his possessions to wit: "From Capt. Solomon Cambie, the castles, towns, and lands of Ballycullitan, the villadge and lands of Bunnadubber and of Killinbog

THOMAS CLIBURNE, OF CLIBURN HALL, WESTMORELAND, AND KILLERBY, YORK. ELDEST BROTHER OF WILLIAM CLAIBORNE

From a painting in possession of Major W. C. C. Claiborne. Original said to have been in possession of Sir John Lowther

or Knock, Ballycullitan; also that part of Annagh from the Castle of Annagh to the ditch of Kilbulloir, together with all the profits and emoluments from the said castles, towns, villadges, and lands" (Public Record Office, Dublin, July 20, 1677).

Thomas was succeeded by Edmund of Killerby, who was born in 1605. He likewise found his estates much involved and was unable to extricate them. He, like his father, avoided politics, but, having spent his remaining fortune in support of his King, was "finally swept into the vortex and ruined."

The fair Lordships of Cliburne had fallen away one by one, till the owner of Killerby was reduced to the position of a country squire. Edmund married the second daughter of Sir Timothy Hutton of Marske, County York, and had Timothy (of whom presently), who succeeded him, two other sons, and three daughters.

Timothy, nineteenth from Bardolph and sixteenth from Alan, was the last Lord of the Manor of Cliburne. He found himself in such straitened circumstances after the Civil War, that he sold the Hall to "Mr. Collingwood, a Bishoprick gentleman, who sold it to Mr. Roger Loray, who yet lives at Broughton Tower in Cumberland, who

exchanged it with Mr. Edward Lee of Broughton, for Broughton Tower. Mr. Lee (*circa* 1664) mortgaged it to old Sir John Lowther, whose grandchild now enjoys it." (Machell MSS., iii., 117.)

Timothy retired to Yorkshire, where he married Mary, fourth daughter of John Talbot, of Thornton le Street, colonel on the part of Charles I. He failed of issue, and the representation of a family which flourished for six hundred years on the Border, passed to his cousin, William Cleburne, of Ballycullitan Castle, Ireland, whose descendant in the sixth generation, William Cleburne, Esq., of Omaha, Nebraska, eldest brother of the late General Pat. Cleburne (C. S. A.), is the present representative of the elder branch of Cliburne. (O'Hart's *Irish Pedigrees.*)

O'Hart, from whom so much has been drawn in these notes, while knowing only the Irish branch of the family apparently, has written, in the following words, a description of their characteristics, which the writer has found amongst all of the name he knows, and which others likewise will doubtless recognize:

After the sale of the Hall and Manor, the few members of the family that remained became humble

tillers of the soil their fathers had owned as Lords; thus the lowest and the highest were very near together and so have been since the world began. The Wars of the Roses and the great Civil War had so utterly ruined them, that, like many another ancient house, scarcely one of its members emerged from that soothing obscurity which overshadows the country squire. Preferring the green woods with peace and mediocrity, to vaulting ambition or the gaieties of a court, their pride was that of *home* and *peace*, expressed in the French distich:

"Je suis ni Duc ni Prince Aussi
Je suis le Sire de Couci."

Content with this spirit of self-importance, they wrapped themselves up in a mantle of exclusiveness, caring so little for politics or the interests of their country, that, while they seldom descended to the level of the masses they rarely rose to the highest positions in the state, and so sank into merited oblivion.

Thus ended the race of Cleburne at Cliburne! Let those of the blood to whom these presents may come, read, mark, inwardly digest, and beware.

CHAPTER II

CLEBORNE OR CLEBURNE, OF CLIBURN, COUNTY WESTMORELAND; HAYCLOSE, COUNTY CUMBERLAND; KILLERBY, COUNTY YORK; ST. JOHN'S MANOR, COUNTY WEXFORD; AND OF BALLYCULLITAN-CASTLE, COUNTY TIPPERARY; VIRGINIA

ARMS: On a field argent, three chevronels braced in base sable, a chief of the last. According to O'Hart:

This ancient and knightly family may be traced in the male line to the early part of the 11th century; and, on the "spindle" side (through the Curwens) to the Scoto-Pictish and West-Saxon Kings. It derived its surname from the Lordship of Cliburne, in Westmoreland, but the early descent of the manor is involved in obscurity, owing to the destruction of northern records in the border wars and feuds of the 12th and 13th centuries. The first record of the name appears in the Domesday or Great Survey of England, A.D. 1086, vol. i., p. 234. (See Jackson's *Curwens of Workington Hall; Symon of Durham;* and Freeman's *Norman Conq.*, iv., 89.)

W. Claiborne. W. Claiborne Sculp.
mar 13 1676-7 from a petition to Charles 2.

Claiborne.

(quartered with Kirkbride)

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Cliborne is pronounced "Clebburn." The name is spelled in over thirty different ways, and is often confounded with Glyborne, Clabon, Claybough, Clayburgh, Giberne, Caborne, and other entirely distinct families of diverse origin.

The word Cliborne is derived from the Anglo-Saxon "Claeg": sticky earth, and "borne": a stream. Danish, "Klaeg": clammy or sticky mud. Ferguson derives it from A-S "clif": a hill, and "burne": a stream. And Picton, from Norse or Danish, "Klifbrunnr": the Cliffstream (compare "Klifsdabr"; Cliffdale).

In the time of Edward the Confessor, Cliburn contained but ten carucates or 1200 acres. At the Survey there were 1440 acres; and by modern measurement it embraces 1360 acres, or ten miles in circumference. It is situated on an eminence on the Leith rivulet, about six miles from Penrith, and is bounded, E.-S.-W. by the Parish of Morland, and north by Louther, Clifton, and Bingham.

Ridpath and others state that the greatest part of Carlisle perished, and the records of the North suffered by fire in 1173; and again in 1292, when the principal records and charters of the North were destroyed.

Nicholson, the historian of Westmoreland, says: "The Manor of Cliburne was early divided into two moieties or halves, Cliburn-Tailbois and Cliburne-Hervey; the first half derived its name from the Tailbois, the Barons of Kendal; Cliburn-Hervey in like manner."

As has been seen in the pedigree of Colonel Wm. Claiborne, the third in descent from Bardolph was Hervey or Herveus FitzAcaris, and the natural deduction would be that the moiety of Cliburn-Hervey derived the latter half of its hyphenated name from Herveus, the son of Acaris and grandson of Bardolph. But it seems that the matter is not so simple after all, for O'Hart discusses it at some length. He says: "Though the antecessors of Hervey in Cliborne are not known, Cliborne, as a man's name, occurs as a donor of houses in York to the Priory of Nastel, A.D. 1120." He says further, "The founder of the family was, undoubtedly, a Norman or Breton Hervey, after whom a moiety of Cliburn was named," but he is in doubt whether this Herveus was a cadet of the great Feudal Baron of Vesci, or of the equally powerful house of Acarius of Ravensworth. (Senhouse, Somerville MSS.)

That he was of the latter, that is, the house of Bardolph of Ravensworth, it is my purpose to set forth presently proofs which appear convincing. Both families held lands in the immediate vicinity of Englewood, and in both the Christian names of Hervey, Geoffrey, Robert, and William occur. By reference to the pedigree of William Claiborne in descent from Bardolph, it will be seen that

Hervey de Cliburne was the son of Alan, that Geoffrey de Cliburne was son of this Hervey, but that the name William does not appear in the pedigree, as set forth by O'Hart, till William Cliburne, fourth son of Edmund, fourteenth Lord of Cliburn, was born; and then not again till the birth of William Claiborne, the subject of this sketch, in 1587.

This is only presumptive evidence in favour of the descent of the family from Bardolph. But it appears to the writer that there is still more evidence, conclusive, in fact, and that evidence lies in the sameness, with "differences," in the arms of Cliburn and other families deriving from the same source.

According to O'Hart, the families of FitzHugh, Askew, and others derive from Bardolph, and Whittaker says: "Askew, Lincolnshire, was granted after 1086 by Alan, Earl of Richmond, to Bardolph, his brother, father of Acaris, ancestor of the Barons of FitzHugh of Ravensworth" (*History of Richmond and the Norman People*). It has been noted that Henry FitzHervey, the eldest son of Hervey FitzAcaris, was the eldest brother of Alan de Cliburne, and that this Henry FitzAcaris was the ancestor from whom the Barons FitzHugh descended. Moreover, the arms of

Cleborne are clearly FitzHugh, and Ravensworth, the seat of the latter family, is within twenty miles of Cliburn. In ancient times, "arms" could not lie and sameness in arms in families indicated a sameness in origin. The arms of Cleburne, as stated, are:

On a field argent, three chevronels interlaced in base sable, a chief of the last, and those of FitzHugh: on a field azure, three chevronels interlaced in base, or, a chief of the last.

The so-called differences are simply modifications in arms and are created by the College of Heraldry. It is obvious even to one not learned in Heraldry, that the arms of Cleburne and FitzHugh are the same in origin. Hence they must have been borne by men of a common ancestry.

There is still more proof, however, which may be described as contributory, in the matter of Christian names. In the period to which reference is made, there were no surnames as there are today, but a son was given a Christian name, and *Fitz* (meaning, son), followed by the name of his father, was added, to show his descent; for example: Akaris FitzBardolph was the son of Bardolph, in like manner, Hervey FitzAcaris was the son of Acaris.

The Christian name of a son was generally that

of his father, another direct ancestor, or a collateral one, and we observe in the name of Alan de Cleburne, for example, a reversion on the part of his father, Hervey, to Bardolph's brothers, Alan Niger or Alan Rufus (or Black Alan and Red Alan). These two, as has been seen, were the second and third sons of Eudo, and elder brothers of Bardolph. Alan continues the custom by naming his son Hervey, in honour of his father, Hervey FitzAcaris; Hervey, in like manner, names his son Geoffrey, in honour of the fourth son of Eudo, Geoffrey, another elder brother of Bardolph.

This custom has continued to the present day, and is not restricted to those of English descent. All these things furnish conclusive proof that the family is descended from Bardolph, the last and seventh son of Eudo, the youngest brother of Alan, first Duke of Richmond. O'Hart finally arrives at the same conclusion, since he derives the descent of the family from Bardolph.

The way in which the manor of Cliburn-Hervey came to Alan is a matter of some speculation. Watson Holland (Somerville MSS.) says a moiety of Cliburne came to Hervey in marriage through the Viponts, who in turn derived it from the hereditary Foresters of Englewood. O'Hart thinks

this a more reasonable explanation than that it descended through Alice, granddaughter of Walter FitzIvo, who married Henry FitzHervey of Ravensworth, who in turn may have enfeoffed Alan de Cleburne. It appears to the writer that the latter explanation is more reasonable than the former, if this Henry FitzHervy of Ravensworth was, as it appears, the elder brother of Alan de Cleburne.

Again, O'Hart suggests that "Meaburn Regis," the property of Sir Hugh de Morville, together with all his other possessions, fell into the King's hands by reason of the complicity of Sir Hugh in the murder of Becket; the King granted these forfeited lands to Robert de Vetinpont, who may have enfeoffed Alan FitzHervey (Alan de Cleburne). Again O'Hart suggests that, while the forfeited estates of Sir Hugh de Morville were in the hands of King John, the Crown may have enfeoffed Alan, or he may have been enfeoffed by De Morville before his lands passed to the Vetinponts.

Of all these explanations, the most reasonable to the writer is, that Henry FitzHervey of Ravensworth, eldest brother of Alan, enfeoffed Alan with Cleburne from his large possessions in the North, brought him by Alice, granddaughter of Walter

FitzIvo, in marriage. However all this may be, Hervey and his descendants held the Manor of Cliburn-Hervey by "Knight service of the Crown" (Collins's *Peerage*, p. 426) and by "Cornage" only of the Viponts and Cliffords, and Alan dictus Cleburne (Le Neve MSS., iii., 114) certainly received (tempore John) a moiety of the manor of Cliburn, County Westmoreland, thus acquiring "a local habitation and a name," but as Freeman (*Norman Conquest*, v., 379) says, "when a man takes his surname from his possessions or residence, it is very hard to say at what particular point the personal designation passes into the hereditary surname."

Alan, being the youngest son of Hervey Fitz-Acaris, was probably, after the manner of younger sons in England even to this day, lacking in this world's goods, and having been enfeoffed by someone, was thereafter known as Alan de Cleburne. This Alan was the first who bore the name of Cleburne. The use of the prefix *de* in the name persisted for centuries, but was finally lost and certainly was not used by Col. William Claiborne, the first representative of the family in America.

The name of the parish in England today is spelled *Cliburn*, likewise that of the old Hall. In Ireland, the name is spelled by the family of Moate

Castle, *Clibborn*, by the descendants of William of Ballycullitan, *Cleborne*, and sometimes *Cleburne*, by others Clibburn, and by the Virginia branch, the descendants of Col. William, of Jamestown, *Claiborne*.

The patronymic of the father of William Claiborne was spelled *Cliburne*, according to O'Hart, and why Col. William should have changed the spelling to *Claiborne* is not shown. His signature in the records in Virginia, and on his petitions to Charles the First, is spelled, *Claiborne*, and all his descendants in this country have retained it as he wrote it. It is the same name however spelled and all the people who bear it are doubtless of the same origin. It is a name hoary with age and has ever been noble and honourable.

CHAPTER III

CLIBURN CHAPEL, OR CHURCH, AND CLIBURN HALL

CLIBURN CHURCH is Norman in structure and is situated within a stone's throw of the Hall. It is mentioned by Grose amongst the antiquities worthy of notice in Westmoreland. It was dedicated to St. Cuthbert of Lindisfarne, and marks one of the resting places of the Saint's body as the remains were borne by monks on their shoulders in their flight from Holy Island, to escape from the Danes in 873.

Singular to relate, there is no mention of the church in *Domesday*, but, as has been remarked, this is no evidence or proof that it did not exist, when the Survey of the North was compiled by William's command. O'Hart thinks it was probably built by Orme, or a Baron of Kendal, in the early part of the eleventh century, and was granted to St. Mary's at York.

Owing to the care, interest, and generosity of its former and deceased Rector, the Rev. Mr.

Clarke Watkins Burton, M.A., it is, or was several years ago, in excellent preservation. There is, in the chancel, a handsome mural tablet to the memory of Sophia Portia Burton, daughter of Sir William Pilkington, of York, first wife of the Rev. Mr. Burton. On the north side is a small Norman window, one of those curious "leper windows," through which lepers used to look on the blessed sacrament, in the ancient days of the Roman Church in England. This window is now filled with stained glass in memory of Cuthbert Lowther Cleborne, a son of Admiral Christopher J. Cleborne, U. S. Navy.

The writer has twice visited Cliburne, once in 1886, as he was returning home from his medical studies in Europe, and again several years ago, after his marriage, in company with his wife, likewise a descendant of William Claiborne, through her father, Major W. C. C. Claiborne of New Orleans.

The church is more nearly what we in America would denominate a chapel, and has from time to time, through the ages, been repaired, till presumably not one stone of the original structure remains. The floor of the church at present consists of a single very large flagstone, taken from a quarry in the north of England. It has

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CLIBURN CHURCH
THE ORIGINAL STRUCTURE DATES FROM THE EARLY PART OF THE 11TH CENTURY

been presumed that the remains of all the Cliburnes lie underneath the flooring of the church or did lie there, for, though the family lived at Cliburn from the days of Alan, approximately 1188, to the days of Timothy, the last of the name in England, 1630–1660, there is no stone or monument or inscription to mark the place where any one of the name of Cliburne was laid to rest.

Admiral C. J. Cleborne, U. S. Navy, now deceased, to whom the writer owes many things and whose memory is held in affectionate remembrance, wrote and told him personally there was a tradition in the family, that the Bishop of Knype, *circa* time Henry VIII., a relative of the Cliburnes, cursed them by bell, book, and candle, for their apostasy from the Church, in a doggerel verse in Old English, which he sent him, but which, by unhappy chance, has been lost from amongst his papers. The writer remembers the curse ran that for the "apostacie and heresie with which they were accurst," their race should perish forever from Cliburne, and not a stone should be left to mark the place where they and their ancestors had lived. It is singular and worthy of remark also that no one by the name of Cliburne has lived at the manor or on the demesne since

the death of Timothy, the last of the direct line. The curse seems to have come true.

The place Cliburn can only be described as a hamlet, composed of fifty or sixty cottages, mostly thatched, and located on a road, which runs through it and from the railway station. They seem to be of great antiquity in general. Just before one arrives at the hamlet, on the way from the station, one finds on the right of the road, the Rectory, formerly occupied by the Rev. Mr. Burton, already referred to, and his family.

The writer cannot forget the ready and cordial hospitality which he received at the hands of this reverend gentleman, his charming wife, and daughters. When the writer presented himself at the door, it was opened by Mr. Burton, who was a picture of an English squire and country gentleman. On the visitor's stating who he was and his object in visiting Cliburne, namely, to see the home of his ancestors, the Rector thrust out his hand, saying, "Welcome, my boy, come in," and leading him into the drawing-room, presented him to his wife, who was on her knees on the floor playing with her youngest daughter, a type of an English child. She received him as if she had known him always, with a cordiality and simplicity which up to that date he had seen only in his

Virginia home. In fact, it was Virginian hospitality, because it was English hospitality. He thinks this incident worthy of mention in these notes, and he was surprised and flattered to know that these strangers accepted him on his own recognizances as the individual he professed to be.

The Hall, at present, with the surrounding ground, is the property of the Earl of Lonsdale, whose family name is Lowther. Lord Lowther is related to the family of Cleburne, by reason of the marriage, in 1574, of Frances, the daughter of Sir Richard Lowther, the Sheriff of Cumberland, to Thomas Cliburne, the eldest brother of Col. William Claiborne of Jamestown, Va., and son of Edmund Cleburne, Lord of the Manors of Cliburne and Killerby. The manor was built by Richard Cleburne in the Tudor style in 1567, on the site of an earlier structure or on the foundations of the ancient fortalice, or "pele of Cliburn."

When the writer was there in 1886, the donjon or keep was still in a state of preservation, and the winding stone stairs that led from it up to the "battlemented parapet" were open; but, on his last visit, several years ago, he was surprised and mortified to find that the stairway had been blocked with brick and mortar. The battlements

the story told by the Admiral touching a tradition about the Cleburne crest. He said, in very ancient times, when the Forest of Englewood was thick and flourishing, one of the Lords of the Manor, returning home late one evening, was caught in a thunderstorm in the Forest. As he was riding fast through the Forest, a thunderbolt struck a tree, and a limb of it, in falling, was on the point of knocking him from his horse, but, at that moment, a wolf ran out of the brush and, frightening the horse, caused him to shy, so that the limb fell short, and the horseman was unhurt.

From this incident the *Wolf* is said to have been taken as the family crest, and it has so remained to this day; at least, it is the crest used by Colonel William and that which most of the branches of the family in Virginia have used. Since Colonel William was the second son of Edmund, his crest is a *demi-wolf*, and is described as rampant reguardant, ppr., which latter abbreviation signifies *proper* or natural colour.

Mr. William Cleburne of Omaha, if alive, alone is entitled to the *whole wolf*. Another tradition claims the *Wolf* was derived from "Hugh Lupus," Lord Paramount of Cleburne and other lands, but the incident related furnishes the more interesting explanation.

Like the crest, the motto is a variable thing, and can be modified or changed. Colonel William used the Saxon words, "Lofe Clibbor na scaeme," which means, "tenacious of what is honourable and praiseworthy, and not of what is shameful." Admiral Cleborne thought Colonel William probably adopted this motto in America to indicate his attitude in his contention with Lord Baltimore, in the matter of the possession of Kent Island.

The Hall viewed from the side of the two oaks is, to the writer's mind, more attractive than when viewed from the courtyard. At the rear is a terrace with steps, and from this vantage point a good view of the surrounding country can be obtained, particularly of the rivulet, brook, or run, called the Leith. This small stream runs over a bed of clay—hence the name Cliburn, or Claystream. Just below and to the right of the terrace is the doorway to the kitchen. Over the doorway the arms, unquartered, are cut. A horse could easily enter through it. The kitchen is very large, and the fireplace, now occupied in part by a modern range, is the largest the writer has ever seen. It appeared to be out of all proportion to the possible needs of the household. The walls are exceedingly thick; they were found, on measurement, to be of the thickness of the length of an umbrella the

VIEW OF CLIBURN HALL FROM THE REAR

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writer had in his hand. The measurement was made at the embrasure of one of the windows. This has some bearing on the originally defensive character of the structure, as O'Hart has suggested that the present Hall was built on the foundations of the ancient pele of Cliburn.

A pele was a round turreted structure, rather peculiar to the North Country and was both a dwelling and a place of defence. One of these towers still stands at Clifford, not far from Cliburne Hall. It consists of a single tower, and is entered below by a door flush with the ground.

These peles were used by the North Country gentry to repel and defend themselves against the inroads and attacks of the cattle-stealing, aggressive Scots, who lived just over the Border, called the Marches.

It is said the Cliburnes were constantly engaged in the Border warfare and were required to furnish men, like all families on the Border, to this end. This tradition is likewise consistent with the pre-existing turrets on the manor, the donjon keep, and the winding stairs leading from it to the turrets on the roof.

The country around Cliburne reminds one of the Valley of Virginia, especially the region of Clarke County. The stone fences are constructed

like those in the valley; the ground is in the same high state of cultivation, the country is rolling, and if one were transplanted suddenly from one place to the other, it would be difficult to recognize the difference between the two. The view from Cliburne Hill, as one goes up from the station, and looks back toward the distant hills is indeed peaceful, tranquil, and sweet. The writer felt as much at home there, as he does in the Valley of Virginia. Even the country people resemble those in Virginia, down to the broad osier hats trimmed under the brim with green, and the trousers stuffed in the boots.

The respect that homogeneous English people have for traditions and blood kinship, guaranteed to the writer, as he does not doubt it would guarantee to others of the blood, a cordial and friendly reception in the houses of both the gentle and humble of the parish. The glory of the old place is departed and only ghostly memories haunt it, but Cliburn Hall, Cliburn Church, and the hamlet of Cliburne are well worth a visit.

It is regrettable that no one of the family is willing or able to purchase the Hall and preserve it from the destruction into which it is fast falling.

CHAPTER IV

DRAMATIS PERSONÆ

IN 1587, Sir Walter Raleigh founded the Colony of Croatan in North Carolina. Bartholomew Gosnold, who was a member of that expedition, on his return to England, induced the fitting out of another to America.

Sailing down the northern coast of the country which is now New England, he came to Virginia. Being moved by the character of the land and its approaches, he brought about, on his return to England, the founding of the original London Company in 1606. The Company was formed under a charter granted by James I., to settle and develop by trade English America along the Atlantic Coast, running one hundred miles inland and extending between latitudes 34°–41°, which is to say, from the Hudson River to the southern limits of North Carolina. He, likewise, induced the formation of the Plymouth Colony, north of this region—a matter with which this sketch is not concerned.

In 1609, the original London Company was re-chartered under the name of the *Virginia Company*. It embraced territory which extended two hundred miles north and two hundred miles south of Old Point Comfort, at the mouth of the James River, and to reach "up into the land from sea to sea." But, in 1612, the colonists begged and secured a new charter, which included the Bermudas.

Up to this time the London Council had governed Virginia, but by this charter the control of the Colony was put into the hands of the stockholders of the Company, who numbered about nine hundred important and wealthy citizens of England, amongst whom were some fifty noblemen and one hundred and fifty baronets, or knights.

The period at which this last company was formed marked the beginning of the long struggle of the English people for government by a free Parliament, as opposed to the absolute rule of kings.

The stockholders were divided into the *Country Party* and the *Court Party*. The former were independents, free and bold thinkers who sought for free things for the government of Virginia, and were decidedly in the majority. The minority,

or *Court Party*, held for absolute government by the King.

On the 30th of June, 1619, the first session of a legislative body in America was held—that of the Virginia House of Burgesses.

On July 24, 1621, the Virginia Colony was granted a written Charter by the Virginia Company, whereby free government was conferred upon them (*Claiborne and Kent Island in American History*, by DeCourcy W. Thom, Eastern Shore Society of Baltimore City, 1913).

Such was the Colony of Virginia, such its area, and such its character of government when William Claiborne, a member of the *Country Party*, sailed from England for the New World.

William Claiborne was born in 1587; it is not known with certainty whether at Cliburn in Westmoreland or at Killerby, another estate and hunting seat of the family in York.

His boyhood and young manhood were passed between these two places. When about thirty-three or thirty-four years of age he went up to London, to seek some means of future livelihood, and made the acquaintance of Capt. John Smith, the Virginia pioneer. It would appear that he and Smith became good friends, for later on John

Smith named a group of islands, outside of Boston, "the Claiborne Isles."

It is not unlikely he received from Smith the inspiration to seek his fortunes in Virginia.

It seems quite certain he came to Virginia in the ship *George*, with Sir Francis Wyatt, in 1621–22. Being the second son of Edmund Cliburn, Lord of the Manor of Cliburn and Killerby, and doubtless being, like most younger sons of English gentlemen, not possessed of much of this world's goods, he must needs win his own fortune. As subsequent events amply show, he possessed qualities that are worth more than inheritance and broad acres. He appears, therefore, in that year of grace 1621, to have taken heart and girded on his sword for conquests in the New World, in the Colony of Jamestown, in the "Kingdom of Virginia." He is found possessed, on sailing, of the post of Royal Surveyor for the Colony. It has been a matter of some speculation to several writers how Claiborne obtained this post. As O'Hart remarks, his position in the Colony in the above-mentioned capacity was obtained, probably, through the influence of Anne, Duchess of Pembroke and Dorset, whose husband was one of the London Company, and who was a connection of his mother, Grace Bellingham, second

daughter of Sir Alan Bellingham. Doubtless, much of the personal influence he had with the King in after years was obtained through this source likewise.

Armed with such credentials, his education, superior to that of most of his contemporaries in Jamestown, according to several writers, his intelligence, capacity, and persistence, it is not surprising to know that, as Fiske says, he prospered greatly, acquiring large estates and winning the respect and confidence of his fellow-planters.

About 1627, five or six years after his arrival, he started trading with the Indians, on the shores of the Chesapeake Bay, the Potomac and Susquehanna rivers. Such barter and exchange must naturally have been very profitable, since with such trifles as beads, hatchets, etc., one could purchase furs from the natives, ship them to England, and fetch high prices.

These seem to have been the first acts that led to his remarkable career. But his broad mind and ambition took in greater territory still; indeed, the Delaware and Hudson rivers, New England, and even Nova Scotia itself.

To this end he directed the attention of William Cloberry, a wealthy London merchant, to the advantages to be derived from such trade with the

Indians. This Cloberry had already traded with Canada, and with other merchants had had a patent to trade with Guinea in Africa. It seems that Claiborne was in England at the time he called Cloberry's attention to the profits to be obtained from traffic with the Virginia Indians, for we find that a company was forthwith formed there, composed of Wm. Cloberry, Maurice Thompson, Simon Turgis, John Delabarr, and Wm. Claiborne, six shares in all, Cloberry holding two and the others one each.

Probably through the above-mentioned court influence Wm. Claiborne obtained from King Charles I. a royal license to trade and make discoveries "in any and all parts of North America not already pre-empted by monopolies" (Fiske). It is well to cite the wording of this license, as it bears importantly on the contention that existed for many years between the actors in the drama that is to follow:

Charles, by the grace of God King of England, Scotland, France and Ireland, Defender of the Faith, etc.

Whereas our trusty and well-beloved William Clebourne, one of our councell and Secretary of State from our Colony of Virginia, and some other adventurers with him have condescended, with our trusty

and well-beloved councellor of both kingdoms, Sir William Alexander, our principal secretary for our Kingdome of Scotland, and others of our lovinge subjects, who have charge over our colonies of New Scotland and New England to keepe a course for interchange of trade amongst them as they shall have occasion. As also to make discoveries for increase of trade in those parts, and because wee do very much approve of all such worthy intentions, and desirous to give good encouragement to these proceedings therein, being for the relief and comfort of those our subjects and enlargement of our dominions, these are to license and authorize the said William Cleburne, his associates and company freely and without interruption from time to time to trade and traffic of corne, furs or any other commodities whatsoever with their shipps, men, boates and merchandise in all sea-coasts, rivers, creeks, harbors, land and territories in or neare those parts of America for which there is not already a patent granted to others for trade.

There are several points to be made in the consideration of this license. First: It was granted as a special license to William Claiborne and not to Cloberry & Co.; second: it was granted May 16, 1631 (*Maryland Archives, Council Proceedings*, i., 19); third: it was not a grant of land but a license to trade, to "keepe a course for interchange of trade," and to "make discoveries for increase of trade" "in or neare those parts of

America for which there is not already a patent to others for trade"; fourth: it was drawn up by Sir William Alexander, the Scottish Secretary, under the privy seal of Scotland, and was obtained with a special view to carrying on trade with Nova Scotia.

Nova Scotia had been granted to Sir William Alexander several years antecedently, under the Scottish seal, to be held for the Crown of Scotland. As Latanè says, this paper to Claiborne was certainly equally as valid as the grant to Sir Wm. Alexander under the seal of Scotland, and the latter was never called into question.

Having secured the license, Wm. Claiborne, on the 28th May, 1631, set sail from Deal, England, on the ship *Africa*, with a cargo of goods valued at £1,318. 9s. 8d. and twenty men servants, "one mayde to wash our linnen," named Joan Young, some passengers for Virginia, and one Henry Pincke, "to read prayers," who "breake his legge and was unserviceable."

After a voyage of two months, the *Africa* arrived at Kecoughtan, Va., where she landed the passengers for Virginia and then proceeded to the Isle of Kent. In 1631, Kent Island was "stocked and planted" by Claiborne and his partners. The trading post was converted into a regular

plantation. In the words of Claiborne himself:

> Entered upon the Isle of Kent, unplanted by any man, but possessed of the natives of that country, with about one hundred men and there contracted with the natives and bought their right, to hold of the Crown of England, to him and his Company and their heirs, and by force and virtue thereof William Claiborne and his Company stood seized of the said Island.

It will be observed that Claiborne made no claim in these words that a grant had been made him; that he based his claims solely on occupancy, and purchase from the Indians. Fiske, quoting Latané, remarks that Claiborne built dwellings and mills for grinding corn, laid out gardens, planted orchards, and stocked the farms with cattle. The statements of these two historians are undoubtedly based upon the testimony, to some extent at least, of certain of Claiborne's men as set forth in the *Maryland Archives, Council Proceedings*, ii., 187, 196, 199, etc., in the depositions taken in Virginia in May, 1640, in the case of Claiborne *versus* Cloberry *et al.* It seems that there were women resident upon the island too, a fact which has been denied, and reference is also made in the above-mentioned archives to a child who was killed by Indians.

In 1632, Capt. Nicholas Martian (Hening, i., 154), an ancestor of George Washington (*Va. Mag. of Hist. and Biography*, April, 1894), represented the island in the Virginia Assembly or House of Burgesses, and a certain Rev. Richard James (Dr. Ethan Allen, MS. Sketch of Old Kent Parish in Whittingham Library), a clergyman of the Established Church, was in charge of the settlement, to which he gave ghostly counsel and service.

The two main objections that have been raised against Claiborne's title to Kent Island are:

(1) that the Virginia Colony had no right to the land in question at the time of settlement since this charter had been taken away several years before; (2) granted that Virginia had jurisdiction over the disputed land Claiborne had no grant of land from the government of that Colony and that, therefore, the settlement was merely a trading post.

As Latané, from whom this is quoted, continues, the first objection is clearly untenable, for the Colony of Virginia had as much right to Kent Island at the time it was settled by Claiborne, as they had to the land on which Jamestown itself stood; for that they had no charter either, but their rights to it had been repeatedly confirmed by the King, and this was binding and legal since

at that time all rights in all colonies depended absolutely on his word. The fact that the charter of the London Company had been annulled did not affect the rights of the Colony to settle lands within the territory originally included in the grants to the Company, in case such lands had not already been granted to other parties.

There was precedent for this principle in the commission given by James I. to Gov. Wyatt just after the dissolution of the London Company in 1624 (Hazard, *Collection of State Papers*, i., 189), and, moreover, in a proclamation from Charles I. in 1625, in explanation of the *quo warranto* proceedings (*Hist.*, viii., 203). What is more, the King's Council by special letter to the Governor and Council of Virginia confirmed this principle, under date of July 22, 1634, as follows:

"We do hereby authorize you to dispose of such proportions of lands to all those planters, being freemen, as you had power to do before the year 1625."

As to the second objection, Latané maintains that though there was no record of a grant to Claiborne, the Virginia Council recognized the validity of his title to Kent Island throughout the controversy between him and Lord Baltimore. The contention that Claiborne had made no settlement on Kent Island has conclusively been

disposed of above. Gen. Bradley T. Johnson, in an address delivered before the Catholic Club in Baltimore in 1895, referred to Claiborne as having squatted on Kent Island and as objecting loudly to Baltimore's grant.

Mr. R. R. Howison, in the Richmond *Dispatch*, April 14, 1895, points out the error of General Johnson in so describing Claiborne's possession of the island. Mr. Howison remarks that

> Claiborne was a claimant in good faith and by a letter older and better than that of Baltimore himself; that the original charter of Virginia embraced the whole of what is now the State of Maryland, and many years before the unjust and tyrannical act by which the London Company was dissolved John Smith had explored the upper part of Chesapeake Bay and made a map of all that region; and in 1621 Porey, Secretary of the Colony, had explored the bay as far as the River Patuxent, which he ascended, and a settlement of a hundred men from the Colony of Virginia had taken place in that region, while other settlements soon followed (Purchase, iv., 1784; Smith, ii., 61–64; Bancroft, i., 236). What is more, in 1627, Claiborne had obtained his license from the Governor of the Colony to explore the head of Chesapeake Bay and any part of Virginia from latitude 34° to 41°. It is therefore erroneous to say that Claiborne had "squatted" on Kent Island."

He was acting, first, under the license of the Governor and within Virginia territory; there were

numerous precedents which he was following in establishing a settlement; and finally the license of the King could only reasonably be construed as giving permission to trade by the establishment of trading posts or settlements. He had the sanction of the Colony; his island was represented in the House of Burgesses and hence was recognized as an integral part of the Colony.

Referring to the charter of 1609, Fiske remarks that

> by that charter Virginia extended 200 miles north of Old Point Comfort, or about as far north as the site of Chester, Penn., which would leave no room for Maryland or Delaware, for that matter. It is true, the charter had been annulled in 1624, but both James and Charles I. had declared with emphasis that the annulling of the Charter simply abolished the sovereignty of the Virginia Company, but did not diminish the territorial rights of the Company.

As Mr. Howison further remarks:

> the mere technical form, obtained by wrong and oppression, of entering a judgment of the King's Bench, dissolving the Virginia Company, did not deprive Virginia of her colonial rights in granted territory; did not divest vested rights and did not authorize English kings to impair the obligation of a sacred contract.

In view of the express declaration of both James and Charles I., it would appear that these last

words of Mr. Howison are unjust to both their majesties.

Fiske, after making the matter so clear and defining beyond a cavil the right of the Virginia Colony to establish settlements in parts subsequently known as Maryland, weakens his position by saying that, undoubtedly, the grant to the Calverts was one of the numerous instances in early American history in which the Stuart kings gave away the same thing to different parties.

It is the writer's intention in this sketch to show that this was not true, and he ventures to believe that the arguments he has just advanced demonstrate Claiborne's right to the possession of Kent Island, and the arguments he will presently advance will demonstrate the unjustifiableness of the claims of Baltimore to the disputed land.

On June 20, 1632, the charter of Maryland was granted to Lord Baltimore. It is well now to set forth the claims of Lord Baltimore—but before doing so, it is just and meet to review his career, to some extent at least, show what manner of man he, the other protagonist in the drama, was, the character and meaning of his grant, the date of his arrival on the terrain, and the attitude of the Virginia Colony and that of Wm. Claiborne toward his claims.

George Calvert was the son of a wealthy Yorkshire farmer of Flemish origin and was born *circa* 1580. After having taken his degree at Oxford and travelled extensively on the Continent, he was made Under-Secretary in the Department of State by Sir Robert Cecil. It was after this nobleman his eldest son Cecilius was named. He evidently was popular at court, and his advocacy of the Spanish marriage of James I. made him the King's favourite, so that in 1617 James knighted him and he was appointed Secretary of State.

It is not certain that he was a Catholic at that time, but, at any rate, he was known to have a strong leaning toward the Church, and about 1624 he resigned his office of Secretary, and in the following year was raised by James to the Irish Peerage, as Lord Baltimore.

It is interesting to note that the name Baltimore, in Gaelic, signifies "large town lands." The name was singularly appropriate in view of the events that transpired in Virginia and Nova Scotia by reason of this nobleman's ambitions.

In 1623 James had granted to George Calvert a large tract of land in Newfoundland, between Trinity and Placentia bays, to be held by him and his heirs for ever. The government was to be a

palatinate, and some explanation of this word is apposite just here, since in the meaning of it is found the crux of the contention between Lord Baltimore and Claiborne for the possession of Kent Island.

William the Conqueror, after the battle of Hastings, made it a rule never to grant large contiguous estates to any one lord, for fear of giving the lords too much power, and for fear of the evils that sometimes arose from their imperfect subordination to his authority—a lesson which he had learned from the Capetian Monarchy in France.

He, however, made one class of exceptions to this rule and that was in border counties, which were never quite free of the likelihood of invasion, and where lawlessness prevailed more or less all the time. In accordance with this principle William granted exceptional powers to three counties, Durham on the Scotch border, Chester on the border of Wales, and Kent in the south, where an invader from the Continent might most easily land. All local administration in these counties was put absolutely in the hands of the county ruler, and they were called *palatinates* or *counties palatine*, by which was meant that within their boundaries the rulers had quasi-regal rights as complete as those the King had in his own

palace. This title harked back to the Merovingian kings of Gaul, to a personage high in the royal household who took judicial cognizance of all pleas of the crown (Fiske). Illustrations of this are to be found in the palatinates of the Rhine and Bavaria.

Therefore, when it was decided to entrust to an English nobleman the work of founding an American colony, far from home and on the confines or beyond those of the then existing civilization, an example was furnished by these English palatinates, particularly that of Durham. Calvert's province in Newfoundland was to be modelled after the palatinate of Durham and received the name of Avalon.

A party of colonists sailed for Newfoundland in 1623, but Baltimore and family did not arrive there till 1627. The climate of the new palatinate proved anything but salubrious, which was contrary to expectations, as a certain Captain Whitbourne had published a book extolling its virtues, and giving glowing accounts of the soft air, red and white roses, wild berries and cherries, and the woods vocal with the song of birds; in St. John's harbour he "once saw a mermaid."

But Lord Baltimore had a rude awakening from his dream of Avalon, for, in 1629, he wrote

to Charles I that he had met many difficulties and encumbrances, that could no longer be resisted and that would force him presently to quit his residence and "shift to some warmer climate in the New World where the winters be short and less rigorous," and

> not knowing how better to employ the remainder of my days than . . . to further, the best I may, the enlarging Your Majesty's empire in this part of the world, I am determined to commit this place to fishermen that are able to encounter storms and hard weather, and to remove myself with some forty persons to Your Majesties Dominion in Virginia; where if Your Majesty will please grant me a precinct of land, with such privileges as the King your father . . . was pleased to grant me here, I shall endeavor to the utmost of my power, to deserve it.

Charles replied in a gracious letter, wherein he advised Baltimore to give up such arduous kind of work and return to England. Before, however, the King's letter reached Avalon, Lord Baltimore with his wife, children, and retinue had sailed for Virginia. He wished to see that country himself, and decide whether it was really fit for his purpose. He had been deceived once, he would trust no one but himself in the future.

He arrived at Jamestown, October, 1629, and found the Assembly in session and Dr. Potts

acting Governor. His reception was not cordial. The Virginians had already commenced to suspect he had ulterior motives in his visit. He was a Papist and all good Virginians hated Papists. They suspected he was trying to get Charles to turn over the Colony into his keeping, but Baltimore had no such intention, he merely wished to found a colony of his own and in accordance with his own ideas.

He was welcome as a transient guest at Jamestown but in no other capacity; to get rid of him they offered him the oath of supremacy, which declared the sovereign the only supreme authority, in British possessions, in all matters ecclesiastical and spiritual. Baltimore of course refused to take it, being a Catholic.

Divergence of religious opinion between the Virginians and Baltimore led later, as usual, to an unpleasant contretemps, as we read from the March records of the Assembly, 1630: "Thomas Tindall to be pilloried two hours for giving my Lord Baltimore the lie and threatening to knock him down." Doubtless such treatment to a distinguished guest did not meet with universal approval in Jamestown, since Lord Baltimore subsequently sailed for England, leaving his wife and children there.

The incident demonstrates a number of things, and one of them is that the Virginians were not snobs and were not overcome by Baltimore's position and prestige. They doubtless expected Baltimore to return and reopen the subject, for the Secretary of State, William Claiborne, was despatched to London, to keep an eye on the wily nobleman and thwart his purposes and schemes. We can understand that the undertaking was agreeable to Claiborne, as he probably had in mind at that time his intention to obtain a license to trade and make discoveries in the Chesapeake. But Lord Baltimore found so many hindrances put in his way that he gave up the idea of returning to Virginia and sent for his wife and children to come back to England.

Baltimore's first request to the King was for a tract of land lying south of the James and extending to Albemarle Sound; the province was to be called Carolina, doubtless in honour of Charles. This charter had already been made out when Claiborne appeared with his objections. While the matter was being discussed in Privy Council it was pointed out to Baltimore that the Dutch were seizing the country between the Hudson and the Delaware, and it was suggested to him it would be good to squeeze them into as narrow a

space as possible (Fiske). The idea seemed good to Baltimore and another charter was substituted for the first, granting to him, as Lord Proprietor, the province which received the name of Maryland, after Charles's Queen, Henriette Marie—commonly called Queen Mary.

The charter was drawn by Baltimore in his own hand and was, in the main, a copy of that of Avalon, but before the royal seal was put upon it he died in April, 1632. The following June, the charter was issued to his eldest son, Cecilius Calvert, second Lord Baltimore. It was drawn in Latin of the period. A complete translation is not necessary to the furtherance of this argument —indeed, the value of it, from the standpoint of the contention between Lord Baltimore and Claiborne, lies practically in two words, and at most in a line. Here they are:

[1] "Ad certam quandam Regionem inferius de-

[1] It is proper to quote here in English, at least the preamble of Baltimore's Charter wherein these words occur:

CHARTER OF MARYLAND

CHARLES, by the grace of God, of England, Scotland, France, and Ireland, King, Defender of the Faith, &c. To ALL to whom these presents shall come, greeting.

II. Whereas our well beloved and right trusty subject Cecilius Calvert, Baron of Baltimore, in our kingdom of Ireland, son and heir of George Calvert, knight, late Baron of Baltimore, in our said kingdom of Ireland, treading in the steps of his father,

scribendam in terra quadam in partibus Americe *hactenus inculta et barbaris nullam divini Numinis noticiam habentibus*"—accurately but not literally translated, "a certain region, in parts of America *not yet cultivated* (hactenus inculta) and in possession of savages or barbarians who have no knowledge of the Divine Being" (italics the author's).

The Charter is divided under XXIII and is taken from *Bacon's Laws*, as quoted by Russell. If it is true, as Fiske says, that Baltimore's Charter

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being animated with a laudable and pious zeal for extending the Christian religion, and also the territories of our empire, hath humbly besought leave of us, that he may transport, by his own industry and expense, a numerous colony of the English nation, *to a certain region, herein after described, in a country hitherto uncultivated, in the parts of America, and partly occupied by savages, having no knowledge of the Divine Being* [italics the author's], and that all that region, with some certain privileges and jurisdictions appertaining unto the wholesome government and state of his colony and region aforesaid, may by our royal highness be given, granted, and confirmed unto him and his heirs. . . ."

Further, under Heading V., which is not so designated in the Latin:

V. And WE do by these presents, for us, our heirs and successors, make, create, and constitute him, the now Baron of Baltimore, and his heirs, the true and absolute Lords and Proprietaries of the region aforesaid, and of all other the premises (*except the before excepted—exceptis pre exceptis*) [italics the author's], saving always the faith and allegiance and sovereign dominion due to US, our heirs and successors; to have, hold, possess, and enjoy the aforesaid region, islands, islets, and other the premises, unto the aforesaid now Baron of Baltimore, and to his heirs and assigns, to the sole and proper behoof and use of him, the now Baron of Baltimore, his heirs and assigns for ever. . . .

was written by his own hand, it is clear that he himself put the limitations to his own grant and so hoisted himself with his own petard.

There can not be two opinions as to the meaning of these words. Baltimore's Charter applied to certain regions not cultivated and still in possession of savages having no knowledge of God. *Per contra*, the charter, did not apply to regions which were cultivated and not in possession of the Indians. We have seen and shown on indubitable authority that the license of Claiborne was obtained in May, 1631, that in July, 1631, two months after sailing from Deale, and after having discharged her passengers for Virginia, the ship *Africa*, with Claiborne and his Company on board, proceeded to Kent Island, and that then the island was planted and stocked, in the manner shown in the depositions taken in the trial of Claiborne *versus* Cloberry & Co. Let us note again that Claiborne, however, did not base his claim, though with good reason he might have done so, on the obvious meaning of Charles's license, but solely on the occupancy and purchase of the island from the Indians.

And let it not be forgotten that the Charter of Cecilius Calvert was not granted until June, 1632, practically one year after Claiborne had pur-

chased and stocked the island. Finally Claiborne had antecedent possession of it, which are nine points in the law.

Though many other sound and irrefutable reasons have been given to substantiate the justness of Claiborne's claim to the disputed land, the wording of Baltimore's Charter, and Claibornes's act in occupying and purchasing uncultivated land from the savages, and cultivating it, are sufficient evidence on which to rest his case.

Cecilius Calvert himself did not come to America to enforce his claims, but sent his younger brothers Leonard and George in his stead. He appointed Leonard Governor of his Palatinate.

Leonard Calvert arrived in English America on the 27th of Feb., 1634, and touched first at Point Comfort, where he found a courteous letter from Gov. Harvey awaiting him. The following month he sailed up Chesapeake Bay and into the Potomac River where, on a small island at that time called St. Clement's, mass was celebrated for the first time in English America, Mar. 25, 1634.

Leonard Calvert's ships consisted of the *Ark* and the *Dove*, the former of 300 tons burden, the latter, 250; his Company was made up of twenty gentlemen adventurers and three hundred

labourers. This expedition on setting out from England caused considerable excitement. The people thought the expedition was in league with Spain and had some inimical intentions against the English Colony in Virginia; so the ships were stopped at Dover and the oath of supremacy was administered to a great number of the Company. It is safe to say, however, that the leaders, who were nearly all Catholics, amongst whom was Father White, did not take it. The Company, on setting out, had received from Lord Baltimore certain instructions by which they were to be governed in settling the Colony. Amongst these, were instructions of a special nature as to the manner in which they should handle William Claiborne. Lord Baltimore seemed to recognize the advisability of conciliating Claiborne, and he directed Leonard to write to Claiborne, arrange an interview, and tell him that his Lordship, hearing he had "settled a plantation there within the precincts of his Lordship's Patent," was "willing to give him all the encouragement he could to proceed," that Cloberry & Company had asked for a grant of the island to them, "making somewhat light of Claiborne's interest," that his Lordship "had deferred the matter until he could come to an understanding with Capt. Claiborne."

Finally he instructed his brother, in case Claiborne refused to come to the interview, to let him alone for the space of a year (Calvert Papers, 131). It appears that these instructions were not carried out in their entirety. In other words, as Fiske says, Claiborne was welcome to the property, only he must hold it as a tenant of the Lord Proprietor of Maryland and not as a tenant of the King, in Virginia. So far as the grant to Lord Baltimore was concerned, a protest from the Virginia Colony was natural and inevitable. They protested against the dismemberment of their Colony and the division of their territory. And they set forth in effect the argument which has already been advanced, that the dissolution of the London Company did not infringe the rights of the Colony to land within the former grants of the Company. Let it be noted that this protest came from the Colony as a whole and not from Claiborne, as has been erroneously stated (Latané).

Finally, as already pointed out, the matter was discussed and answered in the Star Chamber, July 3, 1633. And it was decided to "leave Lord Baltimore to his Charter and the other parties to the course of the law."

This can not be interpreted as a decision against Claiborne's claim to Kent Island, but against the

wholesale claim of the Colony of Virginia to all lands, whether vacant or settled, within their former grant (Latané).

When Claiborne and his associates found that not only were the protests of the Colony not heeded, but that the above decision had been rendered, they decided to petition the King and Council on behalf of their interests.

In the autumn of 1633, Claiborne petitioned the King to protect his interests and those of the Colony in Kent Island, and he set forth the contention upon which so much stress has been laid, that Baltimore's Charter gave jurisdiction only over territory which was unsettled and uncultivated—*hactenus inculta*—whereas Kent Island had been settled as a part of Virginia before Baltimore's Charter had been granted.

The message of Baltimore was communicated to Claiborne while Calvert was at Old Point Comfort discussing matters with Governor Harvey. Latané states Baltimore had a personal interview with Claiborne.

At the next meeting of the Council, on March 14, 1634, "Claiborne requested the opinion of the Board how he should demean himself in respect of Lord Baltimore's patent and his deputies now seated in the Bay." It was answered by the Board, that they

wondered why there should be any such question made. That they knew no reason why they should render up the rights of that place of the Isle of Kent more than any other formerly given to the Colony by His Majesty's Patent; that, the right of my Lord's grant being yet undetermined in England, we are bound in duty and by our oaths to maintain the rights and privileges of this Colony. Nevertheless, in all submission to his Majesty's pleasure, we resolve to keep and observe all good correspondence with them, no way doubting that they on their parts will not intrench on the interests of this his Majesties plantation (*Maryland Archives*, Council Proceeding, II., 164).

Since he was backed by the Governor and Council of Virginia, Claiborne refused to consider or confess himself a member of the Maryland Colony and to yield his right to trade and traffic in the Chesapeake without the license of the Lord Proprietor. It is not difficult to imagine the haughty manner in which Claiborne conveyed his refusal to Leonard Calvert.

To expect him under the circumstances to yield to such a command or demand would be unreasonable, in the face of the facts and the evidence. It would certainly not have been like the hard-hitting tenacious Englishman that he was, whose ancestors had fought in all the wars of England and for centuries had been in constant contention with the rapacious Scots on the border.

That his attitude was just we believe we have amply proved.

All these things brought about the quarrel between "The Two Fruitfull Sisters," Leah and Rachel, or Virginia and Maryland, as Hammond has described them.

CHAPTER V

FIRST SIGNS OF HOSTILITY TOWARDS CLAIBORNE

IT is well to look for a few moments at the rival Colony in Maryland, called St. Mary's. When the Lord Baltimore settlers were looking for a place on which to found their Colony, they settled on a picturesque bluff overlooking the deep and broad St. Mary's River. This they bought from the Indians with steel hatchets, hoes, and cloth. The Indians from whom they bought it were a tribe of the Algonquins, who had been so persecuted by their neighbours, the Iroquois, that they were already on the point of moving away to some safer region; so the proposition of the white man was agreeable to them. The settlers at St. Mary's themselves were protected from the Susquehannocks by the pressure exerted upon that tribe by their hostile relatives of the Five Nations; hence they, on their part, were glad to get on peaceably with the settlers in Maryland. The Colony thrived and was with-

out misfortunes. Cattle and swine were obtained from Virginia, and the country around St. Mary's was soon covered with thrifty farms. The first Assembly was convened and the first laws were enacted in 1635. When Lord Baltimore died about 1675, his Maryland Colony had grown to twenty thousand souls. In addition to the absence of troubles with the Indians such as the settlers suffered in Virginia and New England, there never was a Starving Time as in Virginia.

But trouble was brewing for Claiborne and the Virginia Colony there, and a serious complication arose. The settlers at St. Mary's began to observe signs of distrust and hostility on the part of the Algonquin tribe known as the Patuxents, so they appealed to a certain Captain Henry Fleete, who, report says, was much learned in the Algonquin tongue, and he told them the Indians had been informed that the Marylanders were not Englishmen but Spaniards, and that the Colony was inimical to them. He accused Claiborne of inciting the Indians to acts of hostility against the settlers.

Forthwith, the Maryland Colony made complaint to the Governor of Virginia, who put Claiborne under bond not to leave Jamestown until the charges were thoroughly investigated. Com-

missioners were appointed by both governments, who met at Patuxent on the 20th of June, 1634, and proceeded to examine the King of the Patuxents as to the truth of Fleete's charges. The commissioners from Virginia were Samuel Mathews, John Utie, William Pierce, and Thomas Hinton. Those for Maryland were George Calvert and Frederick Winter. Claiborne was present, and likewise a number of others. As Latané says: "The result was a complete vindication of Claiborne"; and Fiske says there was no reason for casting such atrocious imputations upon Claiborne, who was completely exonerated by the joint Commission of Virginia and Maryland.

Fleete had been a rival of Claiborne's in the fur trade and, pursuing an exactly opposite policy to that of Claiborne, had cast his lot in with the Maryland Government. Claiborne's greater success and superior personality had rendered Fleete jealous, and being of a naturally unscrupulous and mendacious character he attempted to prejudice the minds of the St. Mary's settlers against Claiborne.

It is interesting to glance at the examination of the King of the Patuxents before the above Commission, as shown in the *Maryland Archives*, V, p. 164. A number of questions were asked

the King—the fourth and fifth interest us most. The fourth demanded to know whether the Indians had ever heard Captain Claiborne say that the English of St. Mary's were Waspaines (Spaniards); the answer was that "Clayborne did never speak anything to him of them." The fifth question was "whether Captain Clayburne at any time hath consulted or practised with them or any other Indians to fall out with or destroy the inhabitants of Maryland. Or whether he knowes of any other English that hath or doth practise the same." The King said: "I am very angry that Captaine Fleete should belye mee thus," and setting up a sticke before him often said, "I would Captaine Fleete were sitting there, and Wingatonkah by him and hee should heare, I would tell him hee lyed." Then all the Councillors and Indians present said, when they came to speake with Captain Fleete, "all the lyes would redound upon him and lye upon him as high as his necke, and at last breake his necke." The King further added, he wondered they should take any notice at all of what Fleete said: and the Virginia Commissioners, joining in, said the Marylanders "did not know" Captaine Fleete so well "as we of Virginia, because they were lately come." Fleete subsequently admitted his

charges to be false and apologetically stated he had not made them under oath.

This matter having been settled, doubtless to the satisfaction of even prejudiced minds, we will proceed further.

The charges against Claiborne, however, without their refutation, presumably, reached the ears of Lord Baltimore in September, 1634; thereupon he ordered his brother Leonard to seize Kent Island, arrest Claiborne, and hold him prisoner at St. Mary's until he should send further instructions.

At this point enters Governor Harvey of Virginia who came to Jamestown in March, 1630, following Dr. John Pott as Governor. Harvey was evidently imperious and intolerant of the rights of others; he thought highly of himself, and treated the members of the Council as if they were scullions. By his own admission, he once assaulted one of the Councillors and knocked out one of his teeth "with a cudgel"; bad as these faults were, they were not the worst he had. He was too fond of money and not very particular as to how it came into his hands, as Fiske says. Likewise, he would draw up laws and proclaim them on his own authority, without submitting them to the Assembly. He refused to render

accounts of public money spent, and multiplied the number of fines beyond reason, appropriating all or parts of them to his own use. Five years of behaviour like this drove the Virginians to the last ditch, and when Harvey finally decided against Claiborne and the Colony, and proclaimed himself in favour of the Maryland settlers, the anger of the Virginians got beyond bounds.

As Fiske says: "The Kent Island Matter caused quarrells in families, separated friends, and sowed distrust far and wide." The Scarlet Woman was approaching too near. Upon a certain occasion, Captain Samuel Mathews, a pious Puritan, on reading a letter from England, threw his hat on the ground and shouted furiously, "A pox upon Maryland!" We have stated Governor Harvey took the side of the Marylanders, but he seems to have done this only after finding out that Baltimore's influence would probably prevail against all opposition to his charter.

All this led to practically an insurrection in Virginia, and the climax was reached when Governor Harvey removed from office "The able and popular Secretary of State, William Claiborne" and appointed Richard Kemp in his stead. In December, 1634, Lord Baltimore sent to Secretary Windebank, asking for a letter of thanks from the

King to Sir John Harvey, for the assistance he had given the Maryland Colony against Claiborne's malicious behaviour and unlawful proceedings. Subsequently, Secretary Windebank sent a letter thanking Governor Harvey and desiring him to continue his assistance against Claiborne's "malicious practices." About ten days later the King wrote to Governor Harvey, giving his reasons for the Grant to Lord Baltimore, and requested a continuance of his assistance to the Marylanders. But, as Latané observes, Charles made no mention of Claiborne's "malicious practices," and throughout the whole controversy seemed to be on the side of Claiborne, never writing a word against his claims to Kent Island. Latané also observes, that it is difficult to understand the cause of Claiborne's influence with the King. Outside of his strong and attractive personality, a certain Court influence has been mentioned in explanation of the King's friendship for him.

In the fall of 1634, news of the message of Lord Baltimore to Leonard, to seize Kent Island and arrest Claiborne, came to Cloberry & Co. in London. Whereupon they petitioned the King for protection of their possessions in Kent Island. This petition drew from the King a remarkable

letter, which ought to settle conclusively the meaning and intention of the license granted William Claiborne, to trade and make settlement on Kent Island. His letter dated October 8, 1634, says

> that Baltimore's interference with the Planters on Kent Island is contrary to justice and to the true intention of our grant to said Lord: we do therefore hereby declare our express pleasure to be that the said Planters be in no sort interrupted in their trade or plantations by him or any other in his right . . . and we prohibit as well the Lord Baltimore as all other pretenders under him or likewise to plantations in those parts to do them any violence, or to disturb or hinder them in their honest proceedings and trade there.

As Latané says, relying upon this letter and other assurances from the King, as well as from the Council in Virginia, Claiborne continued to trade in the Chesapeake Bay and contiguous waters. On the fifth of April, 1635, a pinnace of Claiborne's, called the *Long Tail*, was seized by Captain Fleete and Captain Humber, for trading in the Maryland Waters without a license from the Lord Proprietor. The *Long Tail* was commanded by Thomas Smith, one of Claiborne's men. On being asked for a license, Smith showed copies of his Majesty's Commission and the letter just referred to confirming it;

but the Marylanders refused to accept these, affirming that they were false copies (Calvert Papers, 141), and so both goods and vessel were confiscated. This was high-handed, unjust, and intolerable, and since the *Long Tail* had not been armed, Claiborne took the precaution afterwards of arming his vessels to prevent them from being seized by the Maryland authorities. He was to have his revenge and it came soon, but only after another misfortune. Claiborne sent out an armed sloop, called the *Cockatrice*, to make reprisals upon the Maryland vessels. On this occasion his ship was under the command of Lieut. Ratcliff Warren; Calvert, however, was wide awake, and sent two vessels instead of one to meet him, the *St. Helen* and *St. Margaret*, commanded by Captain Cornwalleys. In this fight the Marylanders were successful. One man on the Maryland ship was killed, while Warren and two of his men were killed, and the *Cockatrice* surrendered. But the revenge of Claiborne, though delayed, was inevitable. He sent out another ship again under the command of Captain Thomas Smith, and there was a battle fought in the harbour of the Great Wigh Cocomoco at the mouth of the Pokomoke, May 10th. In this fight Claiborne's men were successful, and for two years thereafter Claiborne

maintained himself on Kent Island, and continued to trade as it pleased him.

It is important to point out just here that the fight of April 23, 1635, in the waters of the Pokomoke, between Claiborne's vessel, the *Cockatrice*, commanded by Lieut. Ratcliff Warren, and the two vessels from St. Mary's, under Captain Cornwalleys, was the first naval engagement that had ever been fought in the New World. (Further reference is made to this incident in the appendix to this sketch.)

The ball was now fairly opened—Claiborne's ship had been seized in the face of the King's expressed letter, the assurance of the Council of Virginia, his own interpretations of his rights, and the clear meaning of Baltimore's Charter. The times were those of force, and aggressions were met with reprisals. These incidents may be said to have actively initiated the bitter fight between Claiborne and Baltimore, that was to be settled fidally only by the Compromise of 1657.

In order to introduce the next act in the drama, it is pertinent to refer again to the attitude of the Virginia Colony toward Governor Harvey. We have seen how unpopular he had made himself by his insolent manners and his questionable acts in the matter of moneys. There was, how-

ever, another cause of complaint against him, and that was the tobacco monopoly, an issue that was to find its culmination later in Bacon's Rebellion. Harvey refused to send the protest of the Assembly against this monopoly to England; therefore, a petition to the Council for the redress of grievances was circulated and the people assembled to sign it. Our pious but characterful Puritan Mathews comes to the front again, and amongst other things remarks that "the inhabitants also understood, with indignation, that the Marylanders had taken Captain Claiborne's pinnaces and men, with the goods in them, whereof they had made prize and shared the goods amongst them, which action of theirs Sir John Harvey upheld contrary to his Majesty's express commands" (Letters from Mathews to Sir John Wolstenholme, May 25, 1635). The reference clearly is to the pinnace, commanded by Thomas Smith, in the Patuxent, April 5th. The news of the fight in the Pokomoke, April 23d, evidently had not yet reached the Virginians.

From this it will be seen that the Virginians were still championing the cause of Claiborne—his cause was the cause of the Colony. As Latané remarks in this connection, "Claiborne was a man of great influence in Virginia, and the charges

brought against him and the order to seize his person had caused considerable indignation in that Colony. Nearly all the Councillors were his staunch personal friends." The feeling of the Virginians toward the neighbouring Colony had become extremely bitter.

Nothing short of an insurrection arose. Charges were preferred by the people against Harvey, personal violence by our good Puritan Captain Mathews was used against him, and Mathews told the Governor that the people's anger would be beyond control unless he agreed to go to England and answer the charges made against him. At first Harvey would not agree to this, but finally yielded, and subsequently was sent to England in charge of Francis Pott, his former prisoner, after Captain John West, brother of Lord Delaware, had been elected Acting Governor, by the Council, May 7, 1635.

Charles at first was furious, but finally overlooked the incident, and in 1639, Sir Francis Wyatt was made Governor for the second time.

The new Government did not undertake to reduce Maryland, but they did uphold Claiborne's claim to Kent Island. West, writing the Commissioners of Plantations in March, 1637, said: " . . . As we find those of Maryland in our limits,

we bind them in deep bonds, to keep the King's peace toward those of the Isle of Kent, and also Capt. Claiborne, the commander of the Isle of Kent, towards those of Maryland."

According to Latané, in 1637, Baltimore, indirectly through his friend, Secretary Windebank attempted to have his Majesty appoint him Governor of Virginia, offering at the same time to increase his Majesty's income by eight thousand pounds yearly. But it is recorded that he did not receive the appointment, and there is no reason to believe that Charles ever even considered the matter (*Maryland Archives, Council Proceedings*, I., 40). The original suspicions held by the Virginians concerning the intentions of Baltimore seem to find some justification in this incident.

It has been stated that Claiborne, after his successful fight in the Pokomoke, May 10th, had possession of Kent Island, unmolested, for two years, and there was no serious trouble between the Kent Islanders and Marylanders until December, 1637, when the island was surrendered to the Maryland authorities through the contemptible treachery of George Evelin, the attorney, agent, and stool-pigeon of Cloberry & Co. Claiborne's partners in England had become discontented because furs were not coming in in sufficient

quantity to suit them, and sent over Evelin to Virginia to look after their interests. This matter with its serious results to Claiborne will be discussed in the following chapter.

CHAPTER VI

THE TREACHERY OF GEORGE EVELIN AND THE SEIZURE OF KENT ISLAND

BEFORE the arrival of Evelin, Cloberry & Co. had ceased to send over any remittances to Claiborne for expenditures, and he was forced to carry on the trade as well as he could with his own resources and servants, thereby incurring loss for which he was never remunerated, according to a statement made by him later. It is not unnatural that the disturbances between him and the Marylanders should have curtailed the fur trade—war generally interferes with the exchange of commodities between belligerent parties.

Evelin arrived on Kent Island in December, 1636. At first he pretended to be an ardent supporter of Claiborne's claims and asserted in the presence of the inhabitants of the island that the "King's commission and his subsequent letter

in confirmation thereof were firm and strong against the Maryland Patent."

He is said to have made derogatory remarks on the Calvert family, affirming that the first Lord Baltimore was a farmer and a grazier, and that Leonard himself was a blockhead and fool at school (Latané). In this way he probably won the confidence of the islanders and deceived Claiborne himself somewhat. But the villain was soon to be unmasked.

In the following year, February, 1637, goods and servants arrived from England, and they were consigned to George Evelin and not to Claiborne. With them came the power of attorney to Evelin and instructions to Claiborne to turn over to Evelin all the goods, servants, and property belonging to Cloberry & Co., to come to England to explain his proceedings and adjust his accounts. Furthermore, he was ordered "to make an inventory of their property and to demand of Evelin a bond for its safe-keeping." It is not difficult to imagine the irritation this peremptory order caused in a man of Claiborne's nature. But he seems to have made an effort to bear himself with patience and prudence, and prepared to leave for England.

A few days before his departure for England, in May, 1637, in the presence of the freemen and

servants of the island, he offered to surrender entire possession of all the goods and properties of Cloberry & Co. to Evelin on condition that the latter would give him a bond of three thousand pounds, not to "alienate the island to the Marylanders and not to carry away any of the servants."

Subsequent events show that Claiborne had already commenced to suspect Evelin's intentions. Evelin told Claiborne he would take no assignment from him, would give no bond, and would take possession of the island "whether he would or not." Again Claiborne tried to get a bond from Evelin but failed, and finally sailed for England, leaving Evelin in full possession of the settlement.

Now that the strong man was gone, Evelin's truculence grew apace and he brought his plans to rapid fruition. Whether it had been his original intention or not, he now decided to throw in his lot with the Baltimore party, and reduce the island to the authority of the Protectorate. The interests of Cloberry & Co. were neglected, he opened negotiations with Leonard Calvert, and paid frequent visits to St. Mary's. As a means to this end, he thought it necessary to win over to himself the Kent Islanders, but there he found a

hard nut to crack; he tried in vain to prejudice them against Claiborne and in favour of Baltimore. They were obdurate—they would none of him.

The only resource left to Evelin was force, and he endeavoured to induce Leonard Calvert to employ it. Calvert seemed to have some conscientious scruples in the matter and objected at first, but, finally, yielded to the importunities of Evelin, as Latané says. Let us read the particulars of the attack from the pen of DeCourcy Thom:

About February 25th, 1638, Governor Leonard Calvert leaving the Assembly in Session, doubtless the better to surprise the enemy who would believe him held by his Legislative duties, sailed for Kent Island with thirty choice musketeers and is said "to have encouraged other men to accompany him and pillage, and even to have contracted to buy the plunder a certain man might make." The ascriptions as to each side in these ancient quarrels seem to be largely inaccurate. Calvert and his 30 choice musketeers and other followers landed at Kent Point on the Island shortly before sunrise on or about February 26th, 1638, and went at once to Claiborne's house, which was situated just back of Kent Point. It was built within a small palisaded fort. One of the party—I wonder if it was George Evelin, he who held the "attorney" for Cloberry & Co.,—"who knew the place, entered it, unbarred the gate of the palisades towards the sea and the St. Mary's men entered without notice." Butler and Smith were absent.

All in the fort were brought to Governor Calvert. Calvert then marched five miles to Butler's plantation, "The Great Thicket," and sent his prisoners to "Craford," Evelin's place situated about the middle of the Island, and named in honor of his wife who had been a Miss Craney. When within one-half mile of Butler's dwelling the Governor sent Ensign Clarke with 10 musketeers to Butler to order him to come to Craford with Clarke. That was accomplished. Then Sergeant Robert Vaughan with six musketeers was sent to Thomas Smith's house "Beaver Neck," on the opposite side of the Creek from Butler's plantation, and Calvert displaying the banner of the Lord Proprietary marched to Craford whither Vaughan brought Smith. The Governor proclaimed a general pardon to all who made submission within twenty-four hours. All the inhabitants came in. Whereupon the Governor stated that they must accept from Lord Baltimore patents for their lands, and that in the Spring he would return with a surveyor to make out their boundaries. On that second expedition to the Island, Calvert took 50 musketeers with him and left two cannon for use at Kent Fort, Claiborne's old palisaded house. All of Cloberry & Co.'s goods and indentured servants were then removed from the Island, doubtless under agreement with Evelin, who disposed of them later.

Even at this late date, it would be interesting to know by what code of ethics Leonard Calvert committed this act of unjustifiable force. But the traitor Evelin got his mess of pottage and was appointed Commander of Kent Island. Thus the

devil took care of his own (see *First Commander of Kent Island*, Maryland Hist. Society, S. F. Streeter, 1868).

Forthwith, Thomas Smith, who had commanded two of Claiborne's ships, and John Boteler, an important man on the island apparently, were arrested and taken prisoners to St. Mary's. Not only these two, but numerous others on the island were arrested, either on the pretext of answering a suit of Cloberry & Co., for debt, or on charges of sedition, piracy, and murder (Latané).

Not content with having already given the devil his due, Leonard Calvert rewarded George Evelin still further by making him "Lord of the Manor of Evelinton."

Having attained his object, with the price of his infamy represented by honours (*sic*) and broad acres, Evelin, whose name ought to be pilloried to infamy in the archives of Maryland, no longer concerned himself with Kent Island, but, taking with him some of the servants and other property of Cloberry and Claiborne, "even digging up the fruit trees in Claiborne's garden," retired to his manor, and thus there was an end to him so far as this history is concerned.

But Cloberry & Co. reckoned without their host when they gave Evelin their power of at-

torney; they had in no way authorized him to have the island reduced. One cannot fail to see just retribution inflicted upon Claiborne's partners by the final dénouement of this act.

After Calvert had returned from Kent Island, Thomas Smith, who had formerly commanded Claiborne's ship, on May 10th, in the fight in the Pokomoke, was indicted and tried for murder and piracy, by the Maryland Assembly. There were at that time "no legally organized courts," inasmuch as the Proprietary had vetoed all previous acts of the Assembly, and so Smith was tried before the Bar of the House, Secretary Lewger being prosecuting attorney. He was found guilty, with only one dissenting voice.

It has been stated he was never hanged, but in *Maryland Archives, Council Proceedings*, ii., 287, it is written he was hanged along with Edward Beckler, another of Claiborne's men. This record seemed to settle the matter and put the climax upon the whole disgraceful affair.

But the final and crushing blow was dealt to Claiborne's hopes by the Board of Commissioners for the Plantations, to whom the dispute over the possession of Kent Island had been referred by the King. The decision was rendered in April, 1638; the claims of Virginia to Kent Island were

ignored; the whole affair was regarded as a personal quarrel between Claiborne and Baltimore, and Claiborne's plea that he was a member of the Virginia Colony was also ignored. The decision was unequivocally in favour of Lord Baltimore; the right and title to Kent Island were his and not Claiborne's.

The Lords Commissioners set forth the arguments, so ably combated by Latané, and others, that Baltimore had a grant of sovereignty under the Seal of England, whereas Claiborne had only a trading license under the Seal of Scotland

It is interesting to note that the Lords Commissioners of Plantations reversed themselves and went back on the principle of the decision of 1638, in a dispute between Lord Baltimore and William Penn in regard to a part of the Delaware Peninsula, in 1685. They adjudged half of the Delaware Peninsula to Penn, on the ground "that the land intended to be granted by Lord Baltimore's Patent was only land *uncultivated and inhabited by savages*, and this tract of land now in dispute was inhabited and planted by *Christians* at and before the date of the Lord Baltimore Patent." The suspicion that political influence inspired the decision against Claiborne is entirely justifiable in view of this decision of the Lords Com-

missioners. In their second decision, they ruled by the clear meaning of the Baltimore Patent—the argument advanced by Claiborne and the Virginians.

Within three months after the decision of the Lords Commissioners (April, 1638), Claiborne, assisted by Sir William Alexander, obtained from Charles a letter or order commanding Baltimore to allow Claiborne, his agents or partners, full possession of the Isle of Kent, with safety to their persons and goods, till the decision of the Lords Commissioners of Plantations should be made known.

It is well to quote this letter of Charles's in order to show his attitude toward the question, antecedent to his knowledge of the decision of the Commission. The wording of this his second letter accentuates the meaning and spirit of the first.

Letter of Charles given under his Signet, at the Manor of Greenwich, July 14, 1638:

> Whereas formerly by our royal letters to our Governor and Council of Virginia and to others, our officers and subjects, in these parts, we signified our pleasure that William Claiborne, David Morehead, in the Island near Virginia which they have nominated Kentish Island, should in no sort be interrupted in their trade or plantation by you, or any other

in your right, but rather be encouraged cheerfully in so good a work; we do now understand that though your agents had notice of our said pleasure, signified by our letters, yet contrary thereto they have slain 3 of our subjects there, and by force possessed themselves by right of that Island, and seized and carried away both the persons and estates of the said planters. Now, out of our royal care to prevent such disorders, we have referred to our Commissioners of Plantations the examination of the truth of these complaints, and required them to procede therein according to justice; so now by these particular letters to yourself, we strictly require you and command you to perform what our former general letter did enjoin, and that the above named planters and their agents may enjoy in the mean time their possessions, and be safe in their persons and goods there, without disturbance or farther trouble by you, or any of you, till that cause be decided. And herein we expect your ready conformity, that we may have no cause of any farther mistake.

Scharf remarks this letter must have been written before Charles knew what the decision of the Commissioners was, and this seems certain, but Scharf observes also, quoting Chalmers, that, Claiborne obtained his letter from the King not only through the influence of Sir William Alexander, but "partly by misrepresentation."

Latané, p. 29: "On receipt of his Majesty's letter Baltimore replied he would shortly wait upon his Majesty and give him 'perfect satisfaction.'"

There is reason to believe that Baltimore prevailed and the King was satisfied. For we read, that, pursuant to the decision of the Lords Commissioners,[1] the Governor and Council of Virginia, issued a proclamation, October 4, 1638, forbidding any one belonging to their jurisdiction from trading within the limits of Lord Baltimore's Charter without license from him or his agents (Scharf's *Maryland*, i., p. 118).

[1] Tilghman, *History of Talbot County, Maryland*, vol. i., p. 509: "It is proper to say, too, there is some doubt in the minds of historians whether the Commissioners ever gave any opinion whatever upon the matters in controversy, as the original documents of such decision could never be found, and a mutilated copy, of the authenticity of which there is uncertainty, is all upon which writers of the present day have to depend."

Notwithstanding this reasonable doubt thrown upon the decision of the Commissioners, their decision, as generally recognized, has been accepted in this argument, and has been combated. Nevertheless, it is well to cite the remarks of Tilghman.

CHAPTER VII

THE BILL OF ATTAINDER

ACCORDING to Latané, the same Assembly of March, 1638, which tried and sentenced Thomas Smith, also passed a Bill of Attainder against William Claiborne, declaring him guilty of piracy and murder, and that he "forfeit to the Lord Proprietor all his lands and tenements which he was seized of on the 23d day of April, 1635." And in pursuance of this act the property of Claiborne on Kent Island and Palmer's Island, which he had likewise purchased from the Indians, was attached and appropriated to the use of the Lord Proprietor. The following is the text of the bill, quoted from Scharf's *History of Maryland:*

St. Maries—In the House of General Assembly, on the 24th March, Anno Domini, 1637, was read the fourth time, a Bill of the tenor and effects following, viz.:
An act for the attainder of William Cleyborne, Gent.

WHEREAS, William Cleyborne, gent., is notoriously known to have committed sundry contempts, insolences and seditious acts against the dignity, govern-

ment and domination of the Lord Proprietarie of this Province, and to have conspired and contrived sundry mischievous machinations and practices with the Indians of these parts, to the subversion and destruction of this Colony and the people thereof: and to have used and exequuted sondry magistratical and regall powers and jurisdictions within this province and upon the inhabitants of the same, by levying of souldiers, appointing Lieutenants and other Officers imprisoning and otherwise punishing of offenders, and by granting letters of reprisall and commissions, for the execution of justice upon the vessells and goods of the Lieutenant General of this Province or from any other Province or state whatsoever: and WHEREAS, by an act of Generall Assemblie met at St. Mary's on the six and twentieth day of February, 1634, (1635, N.S.) among other wholesome lawes and ordinances then made and provided for the welfare of this province, it was enacted, that the offenders in all murthers and felonies should suffer such paines, losses and forfeitures in the like crimes in England. Since the making of which act, that is to say, on the three and twentieth day of April, 1635, the said William Cleyborne hath not onely continued his said violences, mutinies and contempts against the Lord Proprietor and the government of this place, but hath instigated and commanded sundry persons to committ the grievous crimes of pyracie and murther which—pyracie and murther is lawfully indicted by a grand Enquest of foure and twenty freemen of this Province: and since and after committing of the same pyracie and murther, hath fled, and withdrawn himself out of the Province, whereby he cannot be attainted of the said crimes by an ordinary Court of Justice:—

We the freemen assembled in this present Generall Assembly, considering the premises and necessity of exemplary justice to be inflicted on such notorious and insolent rebells and disturbers of the peace and safety of the inhabitants of this Province, and for the terror of like offenders in time to come, we request your Lordship that it may be enacted by the Lord Proprietor with the advice of the Freemen of this present Generall Assembly, that the said William Cleyborne be attainted of the crimes aforesaid, and that he forfeit to the Lord Proprietarie all his lands and tenements which he was seized of on the said three and twentieth day of April in the year 1635. And that he forfeite to the said Lord Proprietary all his goods and chattells which he hath within this Province at this present.

And the aforesaid Bill being engrossed in parchment was approved and signed by the Lieutenant Generall and all the freemen assembled.

As has been observed above, Latané gives the date of the Assembly, March, 1638, whereas the Bill of Attainder is dated March, 1637. The main point is, however, that the decision of the Lords Commissioners of Plantations followed the Bill of Attainder, and upon this sequence a point in equity and law seems to rest. It has already been stated that, *as* there were no legally organized courts at that time, the Proprietary having vetoed all previous acts of the Assembly, Smith was tried before the bar of the House, and we have seen that

the same Assembly passed the Act of Attainder against Claiborne. Latané inquires, referring to the latter incident, by what legal right Claiborne's property was confiscated in view of this veto. It appears there are sounder reasons still than these for questioning the legality and validity of the proceedings of this Assembly in the matter of the confiscation of Claiborne's property and the declaring of him outlawed.

The counts against Claiborne may be classed under five heads:

First, that he conspired and contrived sundry mischievous machinations and practices with the Indians of these parts to the subversion and destruction of the colony and the people thereof;

Second, to have used and executed sundry magistratical and regal powers and jurisdictions within this province and upon the inhabitants of the same, by the levying of soldiers, appointing lieutenants and other officers, imprisoning and punishing offenders;

Third, by granting letters of reprisal and commissions for the execution of justice upon the vessels and goods of the lieutenant general of Maryland;

Fourth, that on a certain occasion after having continued said violences, mutinies, and contempts,

he instigated and commanded sundry persons to commit the grievous crimes of piracy and murder;

Fifth, that he had withdrawn himself out of the province whereby he could not be attainted of the said crimes by the ordinary court of justice.

We will discuss these counts. As to the first one, it has been shown that he was tried by a commission composed of Virginians and Marylanders, and was completely acquitted and exonerated. This fact, therefore, negatives and estops the first count. The second, third, and fourth may be answered under one head.

There can be no doubt that the rightful ownership of Kent Island antecedent to the decision of the Lords Commissioners was at least *sub judice*, for we find Claiborne and the Virginians maintaining that Kent Island was a part of Virginia, Claiborne claiming it as his own property, and Baltimore claiming it as a part of Maryland and his own property, for reasons that both had set forth. Charles's attitude towards the ownership of said property is unequivocally shown in his first letter and emphasized by his second. The King himself, therefore, while he favoured one side, namely Claiborne's, impliedly admitted that the matter was not settled, and concluded by appointing the Lords Commissioners as a final court of

appeal for the settlement of the dispute. Inasmuch, therefore, as the Bill of Attainder antedated the decision of the Lords Commissioners, it appears sound that the said Assembly had no jurisdiction over the disputed territory nor over the question of possession at that time. These three counts are, therefore, negatived and rendered invalid, and may be said to be incompetent, immaterial, and irrelevant.

The fifth count, that he withdrew himself from the jurisdiction of the Lord Proprietor, is by reason of the preceding showing a *felo de se*. As a matter of fact, at that time he was in England, but on his return he did not present himself within the disputed territory for reasons of common sense and prudence. This count, therefore, is hardly to be taken seriously from a legal or any other standpoint. When, then, the authorities of the Lord Proprietor seized Claiborne's lands and tenements, it appears they were guilty of high-handed outrage and unlawful force.

As to Claiborne's rights of ownership to the island after the decision of the Lords Commissioners, it can only be noted that the Colony of Virginia accepted the decision of the Lords Commissioners and forbade all persons within their jurisdiction from trading or trafficking within

the limits of Maryland without license from Lord Baltimore or his agents. This act of the Virginia Council and Governor seems to show that Virginia no longer considered Kent Island a part of her domain, and it appears quite certain Kent Island was no longer represented in the Virginia House of Burgesses. Apart from the attitude of the Virginia Colony in this matter, the question may be raised as to whether the decision of the Lords Commissioners was just and sound law, in view of the original grant of the London Company, and the express declaration of both James the First and Charles the First that the annulling of the original charter simply abolished the sovereignty that had been accorded to the Virginia Company and did not infringe or diminish the territorial rights of the Colony (Fiske, *Old Virginia and Neighbours*, p. 288).

At this point it is vital to point out the meaning of the so-called Bill of Attainder, its legal value, and to make some historical reference to the history of the Act under English Kings.

Mr. Lindsay furnishes the following notes upon this subject:

A Bill of Attainder was an Act of Parliament for putting a man to death or for otherwise punishing him without trial in the usual form. It is hard to

say when the first act of this kind was passed by a British Parliament, but the first that can be referred to with certainty is the Attainder of the Duke of Clarence, in 1477 (17 Edw. 4; 6 Rot. Par. 193). It was a very extended document and filled with eloquent language. After setting forth the offences imputed to the noble victim, it enacted that: "The said George Duke of Clarence be convicted and attaynted of high treason," and this was followed by the appointment of the Duke of Buckingham as Lord High Steward for that occasion to do execution. Such bills were employed more particularly during the reign of the Tudor Kings for the direct punishment of political offences. Dispensing with the ordinary judicial procedure, they took away from the accused whatever advantages he might have gained in the ordinary courts of law. Such evidence only was admitted, if at all, as might be necessary to secure conviction. Indeed, in some cases Bills of Attainder were passed without the introduction of any evidence.

In the reign of Henry VIII., Bills of Attainder were much used through his subservient Parliament to punish those who had incurred the King's displeasure, and many distinguished victims who could not have been convicted of any offence in the law courts were disposed of in this manner, as witness the cases of Cardinal Wolsey, Thomas Cromwell, Queen Catherine Howard, the Duke of Norfolk, and the Earl of Surrey. In the seventeenth century during the disputes with Charles I., the Long Parliament made effective use of the Procedure, forcing the King to give his consent—the most memorable case being that of Lord Strafford, who was beheaded on Tower Hill, May 12, 1641. Other instances are those of

the Duke of Monmouth, 1683, and that of Sir John Fenwick.

A bill for reversing an Attainder took a form contrary to the usual rules. It was first signed by the King and presented by a Peer to the House of Lords, by the King's command. It then passed through the several stages and on to the Commons, to whom the King's assent was communicated before the first reading of the bill; otherwise the entire proceeding was null and void. After the Restoration resort to these measures became less frequent, though the Jacobite movement in Scotland produced several instances. The last Bill of Attainder passed in England was in the case of Lord Fitzgerald, one of the Irish rebel leaders of 1798.

In the period when the bishops, the lords and the knights and burgesses met in one body, they constituted, when so assembled, the High Court of Parliament, and exercised the highest functions of a court of judicature, representing in that aspect the judicial authority of the King. While this body enacted laws it also rendered judgments in matters of private right which, when approved by the King, were final and conclusive. Upon the separation of the Lords and Commons into two separate bodies, holding their sessions in different chambers, and hence called the House of Lords and the House of Commons, the judicial function of reviewing by appeal the decisions of the courts of Westminster Hall passed to the House of Lords. To the House of Commons was left the power of impeachment and perhaps others of a judicial character. Jointly the two houses exercised, among other powers, that of passing bills of attainder for treason and other high crimes.

The word "attainder" is derived from the Latin *attincta* and *attinctura*, and means the stain or corruption of the blood of a criminal capitally condemned, which, by the common law, was the immediate inseparable consequence of the sentence of death. The effect of this corruption of the blood in the case of an individual convicted in the ordinary courts of justice was that he lost all inheritable capacity, and could neither receive nor transmit any property or other rights. The same consequences followed the passage of a bill of attainder, which was equally a judicial, not a legislative act. In addition to this, the feature which made bills of attainder so obnoxious to the statesmen who organized our government, was that the proceedings attending their enactment were governed by no fixed rule.

The law of the High Court of Parliament was distinct from the law of Westminster Hall, paramount to it, superseding and controlling it. Its authority was absolutely unrestrained. In the passage of bills of attainder, as in the trial of impeachments, it was privileged to ignore, or at least to cast aside, the common municipal law, or any other judicial system and to act, as Burke expressed it on the trial of Warren Hastings, "upon the evident principles of common sense." The investigation into the guilt of the accused, if any were made, was not necessarily, or generally, conducted in his presence. He had no right to counsel. In short, Parliament held itself bound by none of the forms or customs of the inferior tribunals, or by any general or inflexible rules of evidence, but, in its omnipotence, created a law and usage of its own.

Bills of attainder were most usually passed in times

of rebellion, of violent political excitement, or of gross subserviency to the crown, periods in which all nations are most liable to forget their duties and to trample upon the rights and liberties of others. These legislative judgments were pronounced, as we have seen, in the exercise of the judicial power of Parliament, though without a hearing, and in disregard of the first principles of natural justice. But the power existed not because the Parliament of England was a representative body like the Maryland Assembly, with legislative functions, but by virtue of ancient usage and prescription, the *lex et consuetudo parliamenti*, which formed a part of the law of the land. *It rested upon principles which had no application to colonial legislative bodies, and certainly could have none to the Maryland Assembly (March, 1638) which was in no sense a court, which exercised no functions derived from its once having been a part of the highest court of the realm, and whose functions, so far as they partook in any degree of a judicial character, were limited to such acts as were necessary to enable it to perform its legislative duties. The right of the Maryland Assembly to pass a bill of attainder could, therefore, derive no support from the precedents and practices of the English Parliament.*

This places the Bill of Attainder passed by the Maryland Assembly in its proper light before the reader and furnishes conclusive reasons for declaring it invalid as a legal document and judicial pronouncement.

There is reason to know that Claiborne stood

alone after the decision of the Lords Commissioners, that, though a single individual, he stood up against Lord Baltimore and the entire Proprietary of Maryland, contending the matter, practically, until the Compromise of 1657. As Fiske remarks: "The sturdy Claiborne, after the decision of the Lords Commissioners, crestfallen though not yet conquered, returned to Virginia to await the turn of Fortune's wheel."

CHAPTER VIII

THE CLAIBORNE-INGLE INVASION OF MARYLAND

WE have seen that the Bill of Attainder was passed and the decision of the Lords Commissioners was rendered while Claiborne was in England. After that decision, Claiborne, having given up all hope of redress of his grievances in England, repaired to Virginia, where, as Fiske has said "he awaited the turn of Fortune's wheel."

But he did not sit down in idleness to wait. He had too much sense to put his head in the lion's mouth, and no one can find it in his heart to blame him. So he sent one George Scovell, to whom he had given power of attorney, on August 21, 1640, with a petition to the Governor of the Council of Maryland, as follows:

That Capt. Wm. Claiborne, at his departure from the Isle of Kent, left an estate within your province, as your petitioner is informed, amounting to a good value; since which time divers inhabitants within

your province are possessed of the said estate, but by what right your petitioner knoweth not; your petitioner's humble request, therefore, is, the premises considered, that your Worship would be pleased not only to allow of your petitioner's letter of Attorney, but also to grant unto him free power and liberty, together with your Worship's furtherance therein, for the recovery of the aforesaid estate, in the hands of any in whom it shall be found

The Governor and Council pithily replied to Scovell's petition that whatever property Claiborne had left in the province on his departure in March, 1637, was possessed, by right of forfeiture, to the Lord Proprietary, by reason of his crimes of piracy and murder, and that if he possessed any other property he would do well to inform his Lordship's attorney of it that it might be appropriated to his Lordship's use.

But the march of events was tending in Claiborne's favour. As Fiske remarks: "The year of Marston Moor was an inauspicious year for the Cavaliers, but a hopeful one for that tenacious and patient waiter, William Claiborne."

In 1642, about four years after the decision of the Lords Commissioners, Charles the First appointed Claiborne Treasurer of Virginia for life. This may have been an attempt to conciliate him for the losses he had suffered in Maryland, but

it may more properly be regarded as a belated and renewed expression of his view of Claiborne's rights to possession of Kent Island. During the fateful year of Marston Moor, the Governor of Maryland as well as the Governor of Virginia went to England. And, as Fiske remarks: "When the cats were away, the mice did play." About the year 1644, while the Civil War was on in England, Claiborne appeared to determine to cast in his lot with the Parliamentary party and renew his claims to Kent Island, in hope that he might be recognized by the new government. The King in the meantime had ordered that any Parliament ships which were in Maryland waters should be seized.

Giles Brent, the Deputy Governor of St. Mary's in casting about to fulfill the royal commands, seized upon the ship of a certain Richard Ingle, inasmuch as there were no others around. Said Richard Ingle was a tobacco trader, was thought to be a Puritan (save the mark!), was strongly suspected of being a pirate, and was certainly a swashbuckler. Taking advantage of this incident, Claiborne attempted to profit by it to obtain his revenge and regain his possessions.

We read in Brownes's *Maryland* that he tried to dispel the doubts of the inhabitants of Kent

Island by assuring them that he had a commission from the King. As Fiske remarks: "He may have referred to the license given him by Charles the First before the decision of 1638, and may have attempted to justify his statements by 'some private logic of his own.' " The private logic of his own more likely was the logic of events, to which ample reference has been made, and, doubtless, he laid emphasis upon the memorable declaration of both Charles and James already referred to.

When Calvert returned from England to Maryland, he was surprised to learn that Claiborne was preparing to invade his dominions, along with Richard Ingle, which was, in fact, a singular alliance, for Claiborne professed to have a royal commission, while Ingle claimed he had a commission from Parliament. As Fiske remarks, however, "This inconsistency did not make the alliance a weak one."

Authorities agree that there is no evidence to believe there was any agreement between Claiborne and Ingle, though, doubtless, Claiborne was glad to have the aid of Ingle in attempting to reestablish himself in Kent Island. But it seems quite certain that the invasion of Maryland by Claiborne and Ingle was altogether successful, and that they had control of Maryland for about

two years. Claiborne recovered Kent Island, Ingle captured St. Mary's, and Leonard Calvert had to take refuge in Virginia for personal safety.

This period was referred to in Maryland as the "plundering time," and consisted of two years of more or less anarchy. Ingle and his men roamed about stealing corn, tobacco, cattle, and furniture, and carrying off large quantities of plunder in their ships. The estates of Cornwalleys, who, we have seen, commanded Baltimore's pinnaces, *St. Margaret* and *St. Agnes*, in the Pokomoke River fight, were especially plundered, and the pious and good Father White was sent to England in chains on a silly charge of treason, but was promptly acquitted.

There is no specific statement extant, as far as can be found, that Claiborne himself, personally, was concerned in the plundering of Maryland along with Ingle and his men, but when we read that the estates of Cornwalleys had especial attention paid to them, it is not difficult to suspect that this particular act was inspired by Claiborne. He was certainly capable of revenge.

But the next year, Calvert received very effective aid and sympathy from Berkley, and in 1646 he was able to make an expedition against Claiborne and Ingle in Maryland, defeat, expel them,

and fully re-establish Baltimore's authority in the Palatinate. The following year, 1647, Leonard Calvert died, and in 1648 Lord Baltimore appointed William Stone, a Protestant and a supporter of Parliament, as Governor of Maryland in the place of Leonard.

Though it is not, strictly speaking, pertinent to the matter of this sketch, it is well to note that the following year, 1649, was the year in which the famous statute known as the Toleration Act was passed by the Maryland Assembly, as drawn by Cecilius himself, without amendment.

CHAPTER IX

THE REDUCTION OF VIRGINIA AND MARYLAND BY CLAIBORNE AND BENNETT, AND THE COMPROMISE OF 1657

ABOUT the end of the year 1650, when the English Parliament found itself sufficiently free from its domestic affairs, it turned its attention to those of the Colonies, and in October of that year an act was passed prohibiting all trade or intercourse with Virginia or the West Indies, for their diverse acts of rebellion, and the Council of State was "given power to send ships to any of said plantations and to enforce all such to obedience as stand in opposition to the Parliament."

As is well known, the term Virginia was a very broad one and covered any of the American Colonies of that time: for example, *Maryland in Virginia* is frequently found in documents of the period. The above mentioned Act seems to have been called forth in some part at least, by

reason of that Act passed in Virginia in October, 1649, under the Berkley administration, whereby the execution of Charles I. was condemned and it was declared that any who undertook to defend the proceedings against Charles should be adjudged accessory *post factum* to his death.

It is interesting to note, likewise, that after this decision many Puritans left the Virginia Colony and fled to Maryland, where they were received kindly, given tracts of land, and were permitted local government and religious freedom.

Naturally, Lord Baltimore was aroused by the power given to the Council of State, and he set about to save his Colony and, if possible, retain it in its original form. He had no intention of allowing it to pass out of his hands without a struggle. He used all his influence upon the Council of State to prevent the name of Maryland being used in the Act for the reduction of the Colonies. Nevertheless, the wording of that instrument was reasonably construed to include Maryland.

He exhibited a very high degree of political cleverness and wisdom in reorganizing his province on a Protestant basis, and by recognizing the principle of religious toleration and freedom just at the time when the Puritan element was in the ascendency.

The Commissioners named by the Council of State to carry out their instructions were: Captain Robert Denis, a naval officer, who was put in command of the fleet, consisting of two ships; Thomas Stagg, Richard Bennett, and William Claiborne. The Council made the wise proviso that in the case of the death or absence of Captain Denis, Captain Edmund Curtis, the commander of the second ship, named the *Guinea*, was to act as Commissioner and take charge of the expedition. Claiborne and Bennett were in Virginia at the time, therefore there is no reason to suppose that their appointment was through their influence or request.

On the voyage, the ship that bore Denis and Stagg was lost, and so the command of the expedition fell to Curtis, commanding the *Guinea*. After the reduction of the Barbadoes, Curtis sailed for Virginia and dropped anchor before Jamestown in March, 1652. News had been brought to Berkeley that the frigate was in port, and he set about to organize a resistance, distributing muskets to the inhabitants of the town, and manning several Dutch ships which happened to be in the harbour, but, before any acts of hostility were committed, the Assembly was called together and decided to submit

itself to the authority of the Commonwealth of England.

The articles of surrender for the Assembly of Virginia were most generous, and in them one can not fail to see the influence of both Bennett and Claiborne. It was signed by Bennett, Claiborne, and Curtis. The 4th article is especially interesting, to wit: "That Virginia shall have and enjoy the ancient bounds and limits granted by the charters of the former kings and that we shall seek a new charter under Parliament to that purpose against any that have intrenched upon the rights thereof." This article, of course, refers more particularly to Kent Island, the original grant to the London Company, and the express declaration of both James and Charles with reference to original territorial rights, repeatedly mentioned herein.

Considerable comment has been made upon the conduct of Governor Berkeley, in surrendering the Jamestown Colony to a single frigate, without resistance, and this has been thought to be all the more remarkable, seeing that there were a large number of Cavaliers in Virginia at the time, but Latané says, "there is no mystery in the matter, that it was due entirely to the strong Puritan element in the Colony."

It is true that many of the radical dissenters had been driven out by Berkeley, but it must not be forgotten that a large element of them still remained and, in view of the fact that Bennett and Claiborne were both there, their influence is not to be overlooked—that of Mathews likewise, for that matter. Mathews was at least a Protestant if not a Puritan, and we have seen him already lay violent hands on the King's own Governor, Harvey. As for Claiborne, he was a Church of England man, and affiliated himself with the Puritans, as we have reason to believe, solely for political reasons and reasons of personal advancement. It has been shown that he was a Cavalier of Cavaliers, in pedigree, and it is probable that the matter of religion played no part in his career except as an incident. At any rate, it seems quite sure that Claiborne and Mathews declared themselves in favour of Parliament, in 1644.

After the settlement of Virginia affairs, Maryland came next in order, and though the name Maryland was not mentioned in the instructions of the Council of State, the words, "All the plantations within the Bay of Chesapeake" were sufficient and just guarantee for the reduction of the Maryland Colony likewise. Inasmuch as Denis and Stagg had been lost along with their

ship, the reduction of the Maryland Colony fell to Curtis, Bennett, and Claiborne, who proceeded along the lines of the written instructions given to Curtis as well as to Denis. Prejudiced historians have maintained that Bennett and Claiborne took advantage of the loosely-defined instructions they had received to take control of the Maryland Government, in order that Claiborne might have a chance to settle his long-standing account with Lord Baltimore. As Latané remarks, just here, "there seems to be no justification whatsoever for such an opinion." For Bennett and Claiborne proceeded to Maryland under the command of Captain Curtis, the commander of the expedition, who had neither interest nor connection with the Colonies.

What is more, their action was subsequently confirmed by the Parliamentary authorities in England, and while Claiborne had politically associated himself with the Puritan dissenters, he had no hope of attaining anything through the Puritans, for an Act had been passed by the Maryland Assembly of 1650, prohibiting all compliance with Claiborne "under penalty of death and confiscation of property." This Act had followed some correspondence between Claiborne and Stone in regard to Kent Island. All the facts, therefore,

are against any undue use of authority on the part of the three Commissioners by reason of prejudice in Claiborne's favour.

Arrived at St. Mary's, the Commissioners simply demanded that the Marylanders be "true and faithful to the Commonwealth of England as now established without King or House of Lords." To this demand the Government and Council were perfectly agreeable, but the demand that all writs and warrants be issued in the name of the Keepers of the Liberty of England was strongly objected to. As Stone persisted in his refusal to accept the second demand, he was deprived of his commission, by a proclamation issued March 29th, and the Government of the Maryland province was put into the hands of a Council consisting of six.

These matters having been arranged, the Commissioners returned to Virginia, when the Assembly of April 30, 1652, elected Bennett Governor and Claiborne Secretary of State, a post which he retained throughout the whole régime of the Commonwealth. When the affairs of both the Colonies had been settled satisfactorily, Curtis sailed for England in his frigate, and Bennett and Claiborne were left in command of both Colonies—Bennett, the Governor of a colony from

which he had been recently expelled as a dissenter, and Claiborne, Governor of the province in which he had been proscribed and from which he had been banished as a pirate and murderer. Both Fiske and Latané agree that, under these circumstances, "they both acted with singular moderation." Fiske, in particular, speaking of Claiborne, says, that in "this, his hour of triumph, he behaved without violence. Nor do we find him again laying hands upon Kent Island." From a careful examination of the records, it appears that Claiborne was in Maryland only twice after the reduction of that province, and that on both occasions he was in company with Bennett in the proper discharge of his duties as Commissioner (Latané). In Virginia he was attending to his affairs as Secretary, and his plantation on the Pomunkey River.

We have stated that Governor Stone was deposed from office because he refused to issue writs in the name of the Keepers of the Liberty of England, but subsequently he changed his mind, acceded to the demands of the Commissioners in this respect likewise, and was forthwith reinstated in his office. But the Puritans commenced to kick against the pricks again, and in January, 1654, they addressed the Commissioners, stating

that Stone had imposed upon them, on his re-appointment, oaths that were not agreeable to the terms on which they came there, "nor to their liberty of conscience, nor as free subjects of the Commonwealth." Bennett and Claiborne replied telling them to remain faithful to the Commonwealth of England, whereupon the Puritans presented another petition to the Commissioners, to which they made a similar reply, and Stone, in violation of the agreement with them, under the direction of Lord Baltimore, issued a proclamation July 4th that henceforth all writs should be issued in the name of the Proprietary as before. Under a demonstration of force, by the Commissioners and a party of Puritans, Stone resigned and the Government of the province was again vested in a Council, with William Fuller as head, and the Commissioners ordered an Assembly to be convened for October 20th.

This was the last act of the Commissioners, and Cromwell approved their conduct by sending a letter of approval in 1655. The Puritan Assembly in October, 1654, passed an act, called an Act "Concerning Religion," which was, in effect, anything else, whereby the toleration of the Catholic religion was prohibited. This "Act"

furnished a striking contrast to the gentle and Christian document of Calvert.

When Baltimore heard that Stone had again given up the province, he wrote him a letter commanding him to take control, whereupon Stone got together a force of 130 men and marched against the settlement of Providence, flying the flag of black and gold—Baltimore's flag. But Captain Fuller was ready for him with a force somewhat in excess of his and a couple of armed merchant ships, one British, the other from New England, anchored in the river. On March, 1655, there was a fight on the banks of the river Severn between the two forces, wherein Fuller, by reason of his superior force and the assistance rendered by the two ships, completely defeated Stone, who lost about one-third of his men in killed and wounded. The standard of black and gold was dragged in the dust, and the Puritans with characteristic inconsistency held a court-martial, at which Stone and a number of others were sentenced to death; four were executed while Stone and the rest were pardoned through the intervention of women. This seemed to establish the supremacy of the Puritans in Maryland, but it was of short duration.

Meanwhile the Virginians, through Samuel Mathews, who was in England, were doing their

best to prevent the government of Maryland being again placed in the hands of Baltimore. They even went so far as to attempt to have his charter revoked, and a bit of warfare of an academic type was waged between Lord Baltimore on the one hand and the agents of the Virginia Colony on the other. Lord Baltimore prepared a paper, wherein he attempted to show that it was to the advantage of the Commonwealth that Maryland should continue separate from Virginia, while, on the other hand, the Virginia agents claimed and set forth in their argument: (1) that the Maryland Charter was in infringement of the rights of the Colony of Virginia; (2) that it comprehended only unsettled lands, whereas Kent Island had been settled under the Virginia Government before the name of Maryland was ever heard of; (3) that Lord Baltimore was a Catholic and a Royalist.

Finally the controversy was concluded by the compromise of November, 1657, and Lord Baltimore was allowed to assume control of the province once more and for all time. A paper was drawn up and signed by Baltimore on one side, Bennett and Mathews on the other, in the presence of Edward Diggs. The terms of the settlement were as follows:

(1) Lord Baltimore was not to call in question any act committed since the disturbances of the province began;

(2) The people in opposition were to have patents for such land as they could claim under Lord Baltimore's conditions of plantations;

(3) Lord Baltimore promised never to give his consent to the repeal of the Toleration Act of 1649, whereby all persons professing belief in Jesus Christ were allowed freedom of conscience. (*Maryland Archives, Council Proceedings*, i., 332.)

In January, 1660, Governor Mathews died, and as Richard Cromwell had already resigned the Protectorate several months before, there was no ruler in England nor any Governor in Virginia. But Virginia seemed to have become reconciled to the loss of her territory when once the settlement with Lord Baltimore had been concluded. The differences of the two were adjusted and the relationship between the two colonies became quite friendly, never to this day to be interrupted in any serious way. From time to time, Claiborne was compensated for his loss in the matter of Kent and Palmer's islands, by land grants from the Virginia government aggregating something more than twenty thousand acres.

By the terms of the above settlement, it can

be seen that, in the first count, Claiborne was personally protected from any act of aggression on the part of Lord Baltimore, and in the brief of Virginia's agents against Lord Baltimore's patent, it will be seen that the Virginians were still true to their original faith and to Claiborne, who not only represented his own claims but the claims of Virginia. But the persistent Claiborne was to make one more and the final attempt to get back his fair isle, and it came about in this way:

In January, 1677, certain Commissioners had been sent over to Virginia to adjust the political conditions and disturbances growing out of Bacon's Rebellion. These Commissioners wrote to His Majesty Charles II. that the provinces of Maryland and North Carolina were prejudicial to his Majesty's interests in Virginia, and suggested that the government of these provinces might be assumed by his Majesty. Claiborne, who had now come almost to the end of his life, grasped at this recommendation as a drowning man grasps at a straw, for he laid before the Commissioners his claim to Kent Island, with many of the papers relating to the old controversy, and addressed a letter to Charles II.; and the Virginia Assembly in addition urged the cause of Claiborne's petition,

showing that "the Island of Kent in Maryland, granted to, settled and planted by Colonel Claiborne, Sen., formerly a limb and member of Virginia (as may appear by our records, they having sent delegates to this Assembly, and divers others Indian proofs and evidence), is since lopped off and detained by Lord Baltimore." The Commissioners referred Claiborne's petition to the King, but history has mentioned nothing further of it.

Exit Claiborne from the drama. As Fiske says, "peace reigned on the shores of Chesapeake Bay. The claims of Leah and Rachel were adjusted, and the fair sisters quarrelled no more."

CHAPTER X

A RECAPITULATION

ALTHOUGH the justness of the claim of William Claiborne to the possession of Kent Island has been amply demonstrated in the preceding pages, it seems proper for the sake of this argument and greater emphasis to recapitulate in categorical order the principles and facts upon which his claim rests:

(1) The grant to the Virginia Company in 1612 embraced territory extending two hundred miles north and two hundred miles south of Old Point Comfort, at the mouth of the James, "and to reach 'up into the land from sea to sea.'" This would extend as far north as Chester, Pa., and would leave no room for Maryland and Delaware.

While this charter had been annulled in 1624, both James and Charles I. had expressly declared that the annulling of the charter simply abolished the sovereignty of the Virginia Company, "but did

not infringe or diminish the territorial rights of the Colony."

The Colony of Virginia had as much right to Kent Island at the time it was settled by Claiborne as it had to the land upon which Jamestown itself stood; for that they had no charter either, but their rights to it had been repeatedly confirmed by the King, and this was binding and legal *since at that time all rights in all colonies depended absolutely on his word* (Latané). The fact that the charter of the London Company had been annulled did not affect the rights of the Colony to settle lands other than those within the territory originally included in the grants to the Company, in case such lands had not already been granted to other parties.

There was precedent for this principle in the commission given by James I. to Governor Wyatt just after the dissolution of the London Company in 1624 (Hazard, *Collection of State Papers*, i., 189), and, moreover, in the proclamation of Charles I. in 1625, in explanation of the *Quo Warranto* proceedings (*ibid.*, i., 203). Furthermore, the King's counsel by special letter to the Governor and Council of Virginia confirmed the principle, under date of July 22, 1624, as follows:

"We do hereby authorize you to dispose of such proportions of lands to all those planters being freemen, as you had power to do, before the year 1625."

(2) Claiborne was (*a*) commissioned by Governor Yeardly in 1627 to explore the head of the Chesapeake Bay and any part of Virginia from latitude 34°–41° and to trade in those regions;

(*b*) Similarly commissioned by Governor Pott in 1628;

(*c*) Commissioned to trade for Cloberry & Company in 1627–29.

(3) The royal license to trade obtained from Charles I. through Sir William Alexander, the Scottish Secretary, in 1631. While this license to trade did not include or bestow a grant of land, it could only reasonably be construed as permitting the establishment of permanent posts for forwarding trade, and was certainly as valid as that grant to Sir William Alexander under the seal of Scotland, which was never called into question.

(4) Precedent: John Smith had explored the upper part of Chesapeake Bay, and had made a map of the region. In 1621 Porey, Secretary of the Colony, had explored the Bay as far as the River Patuxent, which he ascended, and a settlement of one hundred men from the Colony of

Virginia had taken place in that region. Other settlements followed.

(5) The argument of pith and moment advanced by Mr. R. R. Howison, that the mere technical form obtained by wrong and oppression of entering a judgment of King's Bench, and dissolving the Virginia Company, did not deprive Virginia of her colonial rights in granted territory; did not divest vested rights, and did not authorize the English kings to impair the obligation of a sacred contract.

(6) Claiborne's occupancy and purchase of Kent Island from the Indians, 1631.

(7) Settlement and cultivation of the island in 1631.

(8) The date of Baltimore's charter, June, 1632.

(9) The arrival of Lord Baltimore's party at Old Point Comfort, February, 1633, two years after the settlement and cultivation of Kent Island.

(10) The attitude of Claiborne's fellow councillors in Virginia, and their expressed views when Baltimore sent Claiborne word he might hold Kent Island as his property, but only as a tenant of the Proprietary, and not as a tenant of the King in Virginia.

(11) Recognition by the Virginia Colony of Kent Island as an integral part of Virginia, as

evidenced by its representation in the Virginia House of Burgesses by Nicholas Martian in 1632, and Robert Philpott about 1634.

(12) The moral and legal support conferred by the first letter of King Charles and the accentuation of the spirit and meaning of the first letter by the second letter of the King.

(13) The wording of Lord Baltimore's charter in part: "*Ad certam quandam Regionem inferius discribendam in terra quadam in partibus Americe* HACTENUS INCULTA ET BARBARIS NULLAM DIVINI NUMINIS NOTICIAM HABENTIBUS."

Free translation: "In a certain region to be described below in parts of America not yet *cultivated and in possession of savages who have no knowledge of the Divine Being.*"

(14) Antecedent possession—which is held to be nine points in the law.

While it might have been inexpedient and inconvenient for the Virginia Colony to have jurisdiction over a piece of land within the longitude and latitude of the grant of Baltimore, after the establishment of the Maryland government, expediency and convenience have no bearing upon the moral and legal right involved in such jurisdiction and possession.

It is small wonder that Claiborne, with this

array of facts, precedents, and principles behind him, held on to Kent Island as long as possible, and tried with indomitable tenacity, by all means within his power, to regain possession of the fair island that had been so unjustly and forcibly wrested from him.

While we must not forget the element of religion, which has ever played so important a part in the affairs of man, and, undoubtedly, played some part in the contention between Virginia and Maryland, Claiborne and Baltimore, for the possession of Kent Island, there is reason to believe that the desire of possession, perversity, malice, and contentiousness actuated all the protagonists more than religion, in the twenty-four year quarrel which was opened when Baltimore's party cast anchor at Old Point Comfort, in February, 1633.

We have seen that in Leonard Calvert's party, which arrived at Old Point Comfort, the majority were Protestants; while the leaders were nearly all Catholics including the noble Father White and Father Altham. It is only necessary to review the preceding pages, and, more particularly, the pages of other writers on this subject, to note that, while the Catholics were dominant in dictating the form and policy of government in Maryland, and in instituting religious liberty

and freedom, Puritans and Protestants played an important rôle and frequently had the power in their hands; particularly, after the reduction of Maryland by Claiborne and Bennett, and after the battle of the Severn. But the leaven of Catholic faith and spirit was sufficient to keep the divine spark alive, and inspire that most remarkable document, the "Act of Toleration," which was to the greater glory of God, the exaltation of Mother Church, and was a Christian example that formed a striking contrast to that ignoble proclamation by the ten Maryland Commissioners appointed by Bennett and Cromwell, entitled an "Act Concerning Religion" (Scharf, i., p. 214).

These arguments seemed to put Claiborne's claim to the possession of Kent Island, antecedent to the decision of the Lords Commissioners, upon an unassailable basis. Nevertheless, with the exception of Campbell, Latané, DeCourcy Thom, Fiske, and Cooke, few historians have failed to record the reverse opinion, either by direct statement or by implication.

Certainly, these arguments hold good up to the date of the decision of the Lords Commissioners given at Whitehall, April 4, 1638. If it is sound law as applicable to that time and the conditions

under which the Colonies were founded, that all rights in all colonies depended absolutely on the word of the King, it would appear, when Charles referred the matter of the possession of Kent Island to the Lords Commissioners for decision, that the decision of that body as a royally constituted supreme court must be accepted as the King's word and as final.

Nevertheless, to repeat, the argument advanced by Mr. Howison seems to be likewise applicable in this case also:

"If the mere technical form obtained by entering a judgment of King's Bench and dissolving the Virginia Company did not deprive Virginia of her colonial rights in granted territory and did not divest vested rights" neither should the judgment of the Lords Commissioners in the matter of the Kent Island controversy be valid and binding. The point is certainly debatable.

In support of this contention, the attitude of the Virginia Colony toward Claiborne's rights, likewise, is worthy of being noted again. While the proclamation of the Governor and Council of Virginia, October 4, 1638, following the judgment of the Lords Commissioners, formally acknowledged the decision of that body as legal and binding, and forbade any one belonging to

their jurisdiction from trading within the limits indicated by Lord Baltimore's charter, without license from him or his agents, nevertheless, the Virginians stood by Claiborne to the very end, for we find them after the battle of the Severn, when the Puritans were in power in Maryland, through Samuel Mathews, who was in England at the time, doing their best to prevent the government of Maryland from being again placed in the hands of Lord Baltimore. They tried to have his charter revoked and waged the academic warfare already referred to.

Again, in 1677, twenty years after the compromise, when Claiborne, for the last time, laid his claims before the Commissioners sent over to adjust matters after Bacon's Rebellion, and addressed his last letter to Charles II., the Virginia Assembly in their petition to King Charles II., stating their wrongs, supported him in the following words, already quoted:

> The Island of Kent in Maryland, granted to, settled, and planted by Colonel William Claiborne, Senior, formerly a limb and member of Virginia (as may appear by our records, they having sent delegates to this Assembly and divers other Indian proofs and evidence), is since lopped off and detained from us by Lord Baltimore.

CHAPTER XI

THE COURT OF ADMIRALTY PROCEEDINGS

BEFORE summing up the life and character of William Claiborne, we will refer at some length to the "Transcripts of documents amongst the records of the High Court of Admiralty at the Public Record Office in London, A.D. 1638–45," by R. T. Marsden, London, England, November, 1902. Excerpts of those Transcripts have been furnished by Mr. Francis B. Culver, of Baltimore, Md. The transcripts can be found in the archives of the Maryland Historical Society of that city. The excerpts consist in part of:

I

EXAMINATIONS OF PIRATES:
B'DLE 10.
16 APL. 1638.

William Claiborne of Virginia, Esquire, examined before the right worshipfull Sir Henry Marten, the Judge of his Majesties High Court of the Admiralty, and examined upon certain interrogatories ministered on behalf of his Majesty.

The answers of the second, third, fourth, and sixth questions alone are of interest.

To the second, he (Claiborne) sayeth:

That he did send one Lieutenant Ratcliffe Warren in a little boat like a wherry with some menn, having some of them some pieces to defend them from the Indians in Maryland, but noe other arms, to demande some pinnaces that the Marylanders had taken from him, and gave the said Warren a letter under his hand to demand the said pinnaces and goods, but the other particulars of that letter he doth not well remember. . . .

To the third, "he sayeth that he doth not perfectly remember the particulars of the said letter."

To the fourth:

Whereas the interrogatory mentioneth that he should induce the said Lieutenant Warren to believe his commission, he sayeth that the said Lieutenant Warren and all the inhabitants of the Isle of Kent suffering extreme want of corn came to the examinate claiming that the Marylanders contrary to his Majesties express commands had taken their pinnaces from them, soe that they had no possible meanes to relieve themselves and therefore urged the examinate to give them leave to goe to redemande the said pinnaces.

To the sixth,

he sayeth that the said Lieutenant Warren did bringe a boate with some trucking stuffe belonging to Mary-

land to the Isle of Kent which this examinate did wholly leave to the Custody and Possession of the Governor of Maryland's men and sent the Governor of Maryland worde that he might fetch the same away.

Reference is evidently made in the second answer to the fight in the Pokomoke River on April 23, 1635, between Claiborne's sloop the *Cockatrice*, commanded by Warren, and the two ships of Baltimore, commanded by Cornwallys.

In the fourth answer, Claiborne gives his reason for the reprisal, namely, that his pinnace or pinnaces, doubtless referring to the *Long Tail*, which had been captured and confiscated by Fleete and Humber on April 5th, had been taken from him, so that his dependents had no means to relieve themselves and obtain corn.

Claiborne, in this answer, makes lighter of the incident than historians. It is not unlikely that the latter have exaggerated it.

One commentator has attempted, referring to the sixth answer, to lay the onus of blame for the action in the Pokomoke on Claiborne, basing the reason for doing so on the admission that Warren had brought a boat with some trucking stuff belonging to Maryland to Kent Island, which

boat, as noted, Claiborne says he turned over to the men of the Governor of Maryland.

Neither Fiske nor Latané, nor any other historian with whose account of these incidents we are acquainted, has made any mention of this; on the contrary, all historians agree in saying that the seizure of the *Long Tail* was the first act of aggression, and that the next was the fight in the Pokomoke, which followed as a reprisal on the part of Claiborne. The two incidents have, evidently, been confused by the commentator. The incident referred to in the sixth answer must have occurred between the seizure of the *Long Tail* and the fight in the Pokomoke, and this probability is accentuated by the reference to it in the sixth answer.

An unjust attempt has thus been made to try to make the action an attack on Claiborne by Baltimore, as a reprisal for the seizure of said trucking vessel, whereas all historians admit that the action was the result of an attack by Claiborne on Baltimore in reprisal for the seizure of his vessel, the *Long Tail.* This, without doubt, is the sequence of events, and throws the weight of responsibility upon Baltimore, where it justly belongs.

These answers of Claiborne are signed, "W. Claiborne."

The next document is in Latin, is very short, consists mainly of the formal accusation of piracy and murder before the Lord Judge, and demands that Claiborne should appear before the next session of the Court to be held in the township of South Warck in the City of London (*Apud proximam sessionem gaole deliberationis in Burgo de South Warck vel civitate Londoni tenendam*).

The next document is marked:

II

LIBELS
98
No. 278

After the invocation to the Deity, in the presence of the worshipful and distinguished Lord Henry Marten, Cloberry tabulates his complaints against Claiborne under forty-six items. It is wearisome reading by reason of much repetition, bad Latin, and involved English diction. But, it suffices to say, under the forty-six items, he sets forth in sequence, the history, from his own standpoint, of the formation of the Company of Cloberry and Company, the shares possessed by each member, of which Claiborne had one-sixth, the object of the company, the fitting out of the ship *Africa*, other ships with their cargoes, later,

the settlement of Kent Island and the main incidents in the story that has been unfolded in the preceding.

It would be impossible within the scope of this sketch to do more than refer to the complaints of Cloberry against Claiborne in a general way, except in several instances. They may be summed up, generally, under the heads of mismanagement, appropriation of monies and goods belonging to the company, to his own use, setting fire to the storehouses on Kent Island, and refusal to give proper account to said company of goods bartered with the Indians, and those received in exchange, as furs, skins, tobacco, etc.

In Item 25, for example, it is affirmed "that the saiede Cloberrye, Moorheade and Companie have suffered and sustained losse and damadge to the summe or vallue or 10,000, 8,000, 6,000, 5,000 or at least 4,000 lbs., legalis monete Anglie."

The thirty-seventh Item in particular, while it does not refer to merchandise, is of interest, because it affirms that Claiborne took away from Cloberry nine several books of accounts, and kept them. We will quote this item in its entirety, since the answer of Claiborne will also be quoted in full.

That the said Cloberry [inadvertent transposition —evidently meaning Claiborne] lately cominge into the house and lodgeinge of the said William Cleborne [Cloberry being meant] in London, under collour and pretence of seeing an account did take and carrye awaye, without the saied Cloberrye's privity or consent nine severall bookes of account or thereaboutes which concerned or contained the proceedings passages and occurances of the saide traide, discovery and plantations, or part thereof, which saied bookes of accompts together with divers and sundrie letters, other books of accompts and papers concerninge the saied trade, discovery and Plantacions and passages concerninge the same, the said Cleborne still keepeth and possesseth or some other by his privity and consent, *Ac ponit ut supra.*

From this statement, one would conclude if one did not hear the other side, that Claiborne had been guilty of a reprehensible act of stealthy larceny. But the answer of Claiborne, presently to be quoted, puts a very different interpretation upon the incident.

Under Item forty, Cloberry alleges that Claiborne

hath had some treaty with the said Lord Baltimore and made some arrangement with him either by word of mouth, or under his hand in writeinge that all our estates there are forfeited under his Lordshipp and that the right to the saied Isle of Kent and other Islands aforesaied and trade are in his saied Lordshipp

and doth belong unto him. . . . "the said Cloberry and partners damnified 10,000 or at least 5,000 lbs legalis monete Anglie."

The absurdity of this charge must be obvious to any one who has read the preceding pages. That William Claiborne played into the hands of Baltimore, and purposefully, by compact, delivered over to him the islands and goods, is absolutely contrary to historical facts, and is negatived by every incident heretofore related.

Cloberry must have been referring to the decree of the Assembly of Virginia, which, after the decision of the Lords Commissioners, publicly recognized Baltimore as the owner of Kent Island, in conformity with said decision. Claiborne replies to this allegation in his answer. Cloberry and Company dealt in large figures even for those days.

The last four items are in Latin and unimportant. The forty-sixth is very short—in fact, is an emphatic declaration that all the preceding allegations are true.

To this libel Claiborne replies by a counter one under twenty-eight Items:

III

High Court of Admiralty Libels 98 No. 318. 15th February, 1638–1639, Cleborne C. Cloberry Libel

With the usual invocation to the Deity and "in the presence of Lord Henry Marten, Supreme Doctor of Laws in His Majesty's Court—the side of the upright and discreet man William Claiborne against William Cloberry, David Moorehead and George Evelyn, and against and opposed to any other persons concerned," as the preamble, the Libel runs as a general denial of all the allegations made in Cloberry's Libel against Claiborne. All of the items can not be discussed, but reference to several should be made:

The sixth refers to the accusation that he (Claiborne) had set fire to the storehouses on Kent Island with other houses adjoining, whereby the goods belonging to the joint stocke as well as "such as were brought hither in the shippe *Africa* . . . were consumed and burnt in the absence of the said Cleborne who was absent upon the affaires of the said plantacion."

Nevertheless, Cloberry accuses Claiborne of having committed this act of arson even though he himself suffered by it. Except they carry insurance, men do not burn their own property. There were no insurance companies in those days. The accusation appears to be unbelievable.

In Items 8, 9, and 11, Claiborne accuses Cloberry

& Co. of not sending him supplies for the space of five years; to wit:

Item 8: But contrary to their said promises of further supplyes the said Cloberry during the said Cleborne's stay there after the said first supplye beinge by the space of five yeares never but one yeare sent any supplye thither.

Item 9: The said Claiborne expected goods from the said Cloberry and Companie and by reason of the premises in this article mencioned the said plantation and joynte stocke are damnified to the value of 8000li, 7000, 6000 or at least 5000li legalis monete Anglie.

Item 11: That the said William Claiborne duringe the time of his abode in the said Island did yearly send unto the said Cloberry and Companie severall quantities of beaver skins amountinge all to the quantity of five thousand and ten pounds or thereabouts which the said Cloberry and Companie have received and sould for the somme of 4000li or at least 3500li and have not as yett given the said Claiborne any part or account thereof, whereas the greatest part of the said beaver as will appear uppon examinacion of the proceedings on both partes concerninge the saide plantacion were bought with the proceeds of the said Claiborne's own estate and not of the joint stocke and that the said Claiborne was allwaies more out of purse than all the rest of the said partners.

Item 12 refers to the great loss Claiborne suffered by being compelled to remain on Kent Island to look after the affairs of the Company while his

offices in Virginia as "his Majesties Secretary of State and Councell and Surveyor Generall" were neglected and by reason of these things he "had bine otherwise ruined and forsaken soe that by his absence he hath lost his said offices beinge worth at the least 1000li Sterling per annum."

Item 13: Claiborne accuses Cloberry of duplicity in the matter of his suit against his Lordship:

> when he most urged the said suite with the said Lord Baltimore in or about the months of February and March 1637 (Cloberry) did at the same seeke and offer to compound all differences with his Lordship and to exclude the said Claiborne.

Item 14 alleges that Claiborne because of the necessity of remaining on the Island for sixe years to protect the Company's interests has wasted and spent his own estates and become much indebted, sick in body, endured many wants and miseries; been shipwrecked, captured by the Indians, "like to be slayed by them and hath lost the use of his right arm"; by reason of the premises "the said Claiborne is damnified to the value of 1000li legalis monete Anglie."

Item 15 refers to the loss suffered by Claiborne through Cloberry & Company sending over George Evelin to take over the Company's goods,

contrary to their covenant and agreement with the said Claiborne by reason of which the said plantation lyeth voyde and is come to ruine whereby the said Claiborne is damnified in his own sixth part to the value of 1200li, 1000li or at least 800li legalis monete Anglie.

In Item 17, Claiborne claims that Cloberry & Company owed him 160li at the least for milk for the space of sixe years furnished by his own "caves and neat cattle" which was his own property and no part of the Company's possessions, to sustain the plantation, because Cloberry & Company did not send provisions, after the fire.

Item 18: After Claiborne's arrival in England, to answer charges made against him by Cloberry,

The aforesaid Claiborne showing some accompts and other writings concerning the said plantacion unto the said William Cloberry and David Murhead or one of them, he the said Cloberry snatched away some of them and the said Cloberye and Murhead or one of them still keepe and detayne the said accompts (and) writinges whereby the same Claiborne is much damnified and cannot present the accompt concerninge the said joynte stocke.

It will be remembered Cloberry accused Claiborne of filching "nine several bookes"—any comment on the above childish and petulant act and the author of it is unnecessary.

Item 19 alleges that Cloberry and Murhead or one of them falsely slandered and accused Claiborne of burning the houses upon the plantation in order that he might not give an account, and, being in debt to Cloberry & Company, of running away out of England "by which scandalous reportes the said Claiborne is damnified in his estates and good name to the value of 1000^{li} or at least 500^{li}."

Items 20, 21, 22, 23, describe various moneys or disbursements which Claiborne made in the interest of the Company of which the firm had not paid their share.

The remaining items are in Latin and are of no particular interest.

This Libel is concluded with this endorsement:

CLEBORNE *con.* CLOBERRIE
MARTEN SMITH
} Libelus per Martin datus Crastino Valentin 1638

Claiborne's personal answer to Cloberry Libel follows:

HIGH COURT OF ADMIRALTY, MISCELLANEOUS BOOKS 853, 15th of March 1638–1639

PERSONAL ANSWER OF CLEBORNE TO CLOBERRY'S LIBEL.

Cloberry maintained that Claiborne did not and was not willing to render the proper account of his barters and sales, during the management of the affairs of the Company in Virginia. Claiborne in his answer, referring to Item thirty-six of Cloberry's Libel:

Whereupon this respondent told him the said Cloberry, that there was much more due him from the said Cloberry and Company, for disbursements made by him for the said plantacion as he could make justly appeare by his accountes and that he had spend and layd out the proceeds of the said Beaver, in other skinns upon other occasions but nevertheless to avoyd suite of lawe and upon condition that the saied Cloberry and Company would refer the differences between them to bee arbitrated and determined by indifferent men to be mutually chosen, hee this respondent, was contented and promised either to deposite soe much money as the shares of the saide Cloberry & Company came to for the Beaver and other goods sould by him in Ireland, as aforesaid or in defect thereof to make over unto the saied Cloberry & Company any bondes, specialty or cattle, which hee this respondent, had belonging to him, here in England or in Virginia.

This is quoted merely to show the fairness of Claiborne in proposing arbitration by disinterested parties for settlement of differences. Claiborne, evidently, had no fear of investigation.

In reference to Cloberry's accusation, that Claiborne had played into the hands of Baltimore and by agreement by word, or in writing, had turned the Island of Kent over to said nobleman, Claiborne points to the decision of the Lords Commissioners whereby the Island was declared to be the property of Baltimore, and in view of the decision of this Board appointed by his Majesty, "Hee, this respondent, hath refused to joine with the saied Cloberry & Company in complayninge against or opposing the saied Lord Baltimore's Grannte or Patent articulate." In other words, Claiborne refused to be made a cat's paw of by Cloberry & Company to attack and oppose Baltimore at their instigation. He was not a man to be used. He would fight Baltimore, when it seemed good to him, but not at another's insistence or wish.

But the most interesting reply he makes to Cloberry's Libel, is to the accusation of taking "nine several books." Replying to that item he says,

That uppon the desire of the saied Cloberrye to see the accomptes concerninge the plantacion and joynte stocke, this respondent several times carried the saied book of accomptes into the saied Cloberrye's House, in Coleman Streete and Buttolph Lane,

London, and left them there with him, and afterwardes haveinge occasion to make use of his said bookes, came to the said Cloberrye's House and there seeing them lyeing in his chamber took them away with him and still keepeth and lawfully possesseth the same as he believeth. Et Aliter etc.

The mystery of the books is cleared. Claiborne had no objection to Cloberry examining his books and several times carried them to him. But, finally, having occasion to consult them himself, he repaired to Cloberry's House, and finding them lying around in his chamber, took them away without saying "by your leave" to Cloberry, and kept them, which was his right. This changes the complexion of a very serious accusation, which, like all the rest of them against Claiborne, is modified or negatived by Claiborne's answers.

To the personal answer of Claiborne, Cloberry filed his personal answer:

VII

High Court of Admiralty, Misc. Books
854 Personal Answer of Cloberry
2d Oct. 1639 to Cleborne

This paper, Cloberry's answer to Claiborne's twenty-eight "pretended positions," is more or less a repetition of his preceding libel, a general

and specific denial of Claiborne's statements, contains some new unimportant matter, one or two statements that are contrary to the accepted historical facts, and a good deal that is irrelevant and immaterial. It fails to strengthen Cloberry's position.

We will note some of his answers: Replying to the "fourth pretended position" of Claiborne, Cloberry

> answereth and believeth that through the neglected error and remissness of the said Cleborne in not giveing timely and quick advice to this respondent of his the said Cleborne's proceedings in the discovery trade and plantacions and where he had settled, the said Baltimore had notice thereof and got a patent under the broad seal of England for certain landes, etc., comprehending the said Island, wherein the said Cleborne had planted within the limitts of the said Lordship's Patent before such time as this respondent had notice thereof or knew the said Cleborne's intentions;
> Soe the said fault and neglect is whollye in the said Cleborne, which otherwise might have been prevented.

The absurdity of the complaint is obvious to all who have followed the sequence of events. Kent Island was planted and stocked in 1631, and the charter of Maryland was granted to Lord Baltimore in June, 1632. Cloberry pretends that

if Claiborne had informed him of his intentions he could have prevented the complications which ensued. Claiborne sailed from Deal, England, as we have seen, in the ship *Africa*, May 28, 1631, and after touching at Kecoughton (Hampton) to land some passengers, proceeded directly to Kent Island, where the process of stocking and planting the Island was begun. Baltimore received his grant June, 1632,—about a year afterwards.

Cloberry, had he known where Claiborne was going to establish his post, being, evidently, a man of humble position, in all probability could not have influenced Charles to modify his grant to Baltimore, to suit his (Cloberry's) interest. It is unthinkable that he could have done so. As for regulating Claiborne's choice of location in the New World, while he remained in England, that is likewise unthinkable. He knew nothing of the parts by experience. Moreover, since the *Africa* sailed directly to Kent Island from Deal, it is not improbable that Cloberry knew when Claiborne left England and what his destination and choice of location were. The whole accusation and blame falls before the test of reason.

"And further this Respondent hath bine informed that the agents of the said Lord did offer

to have agreed and joyned with the said Cleborne in the said trade but the said Cleborne did absolutely refuse the same." This is the truth, as has been shown, and it is refreshing to meet it. It is well known that Baltimore offered to let him retain his Island and proceed with his trade, as a tenant of him, Baltimore, but not as a Virginian and tenant of the King. Claiborne, after asking instructions of the Virginia Assembly haughtily refused. The decision in such matters lay in his own hands, not in those of his partners. He was on the *terrain;* they were in England.

In regard to Claiborne's statement that he advanced and expended his own means to supply the plantation, Cloberry, replying in part to Claiborne's 7th, 8th, 9th, and 10th positions, says:

> he further saieth and believeth that the said Claiborne did not nor was able to supply the said plantation with goodes out of his own estate for that (to this respondent's knowledge) he had not any money or estate here to supply and pay for his owne sixth part of the goodes sent him from hence.

Here is a difference of opinion as to what Claiborne possessed. Cloberry affirms he knew better than Claiborne—or it is a question of veracity.

Replying to Claiborne's 12th position, Cloberry says:

"Neither doth he believe the saied Claiborne lost his places in Virginia by stayeing on the plantacion."

To the 13th and 14th, Cloberry denies that he sought to compound all differences with Lord Baltimore, but "that he would not conclude any thinge with the said Lord without holdinge the said Claiborne therein." Another matter of veracity.

Furthermore, Cloberry says he did not believe that the said Claiborne had wasted his body or estate in said employment, since he had no estate to lose and that if he lost the use of his right arm ("which this respondent believes not"), it was through his own carelessness.

Referring to the sending of Evelin to take charge of the estate, Cloberry affirms it was Claiborne who requested it, refers to Evelin as one "who was recommended to them to bee a very honest and understanding man in such affairs, and does not believe that the said Evelyn sold or alienated any part of the said plantacion," etc.

Evelyn certainly proved himself to be a very "understanding" man both to Cloberry and Claiborne. As to his "alienating" any part of the plantation, history has affirmed what he did.

To the 18th position he denies he ever snatched away any accounts from Claiborne as pretended, and proceeds to reiterate the old story about the "nine severall bookes."

Each litigant ends his personal answer with the Latin formula:

"Ad Ultimum respondet Quod Credit Credita, et Negat Negata," which sounds very much like "scissors."

It would require the judgment of a Solomon to render a decision in the case. While the discussion can not be said to reflect credit on either litigant, it also can not be said that either one has been judicially discredited by the proceedings. It needs but little knowledge of human nature to see how, under the circumstances, each one may have had a right to the view he took, and the divergence of the two litigants in the matter of facts, is not so much a question of veracity as point of view.

The whole record consists of mutual crimination and recrimination, accusation and counter accusation, affirmation and denial after the manner of two angry litigants, but Claiborne's statements are clearer, more direct and to the point, and the figures of valuation he quotes are lower than those of Cloberry and, for that reason, probably more

nearly correct. All of which is consistent with Claiborne's intelligence and education. In short, Claiborne makes a stronger case against Cloberry than the latter against him.

CHAPTER XII

AN ANALYSIS OF CLAIBORNE'S ACTS AND CHARACTER

THIS sketch would be incomplete if it did not review the accusations, epithets, and abuse heaped upon William Claiborne by those who have come after him. He must, indeed, have been a remarkable character, who could make such staunch friends, and such bitter and implacable enemies; for no man has been able to refer to him either in the past or present, who does not speak of him either with the bitterest condemnation or decided praise; but those who condemn him are many—and those who praise him are few.

Yet it has remained for two hundred and twenty-nine years to pass, for his severest critic to arise and pour upon him a condemnation which smacks of that of his old antagonists of Maryland. It might have emanated from the pen of Baltimore himself, or some member of the Assembly which passed the Bill of Attainder.

This latest writer is Father W. T. Russell, author of *Maryland the Land of Sanctuary* (1908). He introduces his criticism of Claiborne by referring to him as one of the earliest enemies of the Maryland Colony. His attitude toward Claiborne and his claims are best set forth by quotations from his work.

On page 181:

> Claiborne, who was "born to be the bane of Maryland," after having experienced the King's favour by receiving the appointment as the King's Treasurer from Virginia (1642), probably found in the ordinance of the Parliamentary Party for the sequestration of the property of the King's adherents (1643), an opportunity to make good his claims to Kent Island. So sudden a change of politics was of little concern to him. Episcopalian, abettor of Puritans, Royalist, or Parliamentarian, he was capable of being almost anything but a friend of Lord Baltimore's and an honest man.

Again, page 180:

> This rebellion has been called Claiborne's and Ingle's, and although association with Claiborne would not have been dishonorable to one such as Ingle, historical accuracy seems to call for distinction. It is probable, in the absence of evidence to the contrary, "Ingle and Claiborne never planned any concerted action, but that each took advantage of the other's deeds to further his own interest."

Page 217:

As early as 1647, at least we can follow the trail of this conspiracy, in which Claiborne, playing on the scruples of the Puritans in Maryland, contrived to form a partnership with them for the overthrow of the Government.

Page 218:

Claiborne and Mathews, although not identified with the Puritans in religion, had all along been the leaders of the popular party in Virginia, having brought about the insurrection under Governor Harvey and deposed him from office. The careful observer should not find it difficult, in the policy directing the events of this period, to see the hand of Virginia reaching out for the absorption of Maryland, and the itching palm of William Claiborne waiting to grasp Kent Island; both feeding the fires of Puritan arrogance and desire.

Page 222:

Under his bluff soldierly exterior and his veneer of ruffling bravado he concealed an infinite depth of subtlety, cunning, and craft. A matchless finesse and policy lurked beneath his cavalier manner. Not only could he trim his sails to catch each and every wind that might carry him to the Fortunate Isle of his heart's desire, but he could so arrange circumstances that the event transpired apparently without any agency of his own; he could so inspire that the paternity of the suggestion could not be traced to himself.

Page 332:

Claiborne the indomitable, unsubdued by the years, and untamed by the repeated balking of his vengeance, made at this period his final effort to reclaim Kent Island. To that end, in 1677, he addresses a letter to the King, a letter pitiful in its whining and grovelling, in its assumption of the character of an unrewarded partisan of his Majesty's father of glorious memory, in its utter lack of the common decencies of self-respect. He alludes to himself as a poor old servant of "your Majesty's father and grandfather"; holds up his old age and losses for commiseration, and finally concludes with humbly prostrating himself at his Majesty's feet for speedy justice in so lamentable a case.

These are excerpts from the letter written to the King by Claiborne, at the time the Virginia Assembly addressed their last letter to the King urging Claiborne's cause, 1677, and have already been referred to. Proceeding further, Father Russell quotes Browne's *Maryland:*

Royalist who turned Parliamentarian; Churchman who turned Puritan; King's Officer who became Cromwell's Commissioner. . . . While doing justice to his readiness of resource and indomitable tenacity of purpose, one cannot but wish he had used directer methods; that he had sailed under fewer flags, and that when hard knocks were going he had stayed and taken his share, instead of slipping off to Virginia and leaving others to do the fighting.

Burke refers to Claiborne as "an unprincipled incendiary, and an execrable villain"; others have called him "The Bane of Maryland"; others, "The Evil Genius of Maryland," and in all histories he is known as "Claiborne the Rebel." It would be possible to quote from other historians who wrote of his period and day, who have varied these epithets, colouring them by their individual prejudices and convictions, but it is unnecessary to go into this matter any further, except to remark that the members of the Maryland Assembly reached the climax of injustice in attainting him of the crimes of piracy and murder.

It is well to discuss some of these criticisms.

It is not our purpose to attempt to justify all the acts of William Claiborne. They are, without question, capable of various interpretations, differing according to the prejudice or mental processes of each individual critic, but the scathing, unmerciful condemnation bestowed on him by the critic just mentioned, and others of like exaggerated character, would appear to a dispassionate observer prejudiced, unfair, and partisan.

There was no crime in Claiborne's being an Episcopalian, which he certainly was by admission of authority, or Puritan, which he certainly was not. When we read from Father Russell, that Clai-

borne was capable of being anything but a friend of Lord Baltimore's and an honest man, we confess that we receive something of a shock. It was doubtless the desire of Lord Baltimore and all the Marylanders, both Catholic and Protestant, that Claiborne should, on bended knee, have placed his hand between those of Baltimore, and declared himself Baltimore's man; that he should have received with submission the patronizing condescension of Baltimore, in offering him his own property, which he had carved out of the virgin wilderness by his own courage, ability, and enterprise; for which he had the endorsement of King, Virginia Council, and the Virginia Colony, was backed by precedent, sound principles of law, and the clear meaning and letter of Lord Baltimore's Grant.

If he had done so, he would have been unlike all the other Englishmen of his time, unlike his own forebears, and unlike any of his descendants, who have fought at all times for constitutional liberty, to do what they would with their own; who have shed their blood freely, and without regret, to cement the foundations of English Government in the New World, have rebelled against kings when they threatened the liberty of the people, and opposed armed oppression at all times, when

their constitutional and personal rights were menaced.

No! He was incapable of being a friend of Lord Baltimore under such circumstances, nor could any other man with self-respect, under like circumstances, have been so. But a man might be incapable of all these things, and still not be an honest man. There are many contradictions in human nature, and men have been brave, tenacious, fearless, and yet dishonourable. But we can find no reason to accept the statement that Claiborne was anything but an honest man. We find him holding on to his own property, for sound reasons, and the first act of aggression in the drama was performed by Baltimore's men when they seized his ship and goods, at a time when the right to possession of Kent Island had not been legally established—*i. e.*, before the decision of the Lords Commissioners. His ship was taken and his goods confiscated, and they were never returned. This was an act of unjustifiable force, of robbery, of piracy—not the result of due legal process.

In proof of which, note the instructions of Charles in Claiborne's License to Trade:

> These are to license and authorize the said William Cliburne and his associates and company without interruption from time to time to trade and traffique,

. . . boats, merchandise, cattle, mariners, servants and such as shall willingly accompany or be employed by them from time to time freely to repair and trade to and again in all the foresaid parts and places as they shall think fitt and their occasion shall require, *without any stop arrest search hindrance or molestation whatsoever as you and every one of you will answer to the contrary to your peril.* [Italics are the author's.]

Since the King's word was law at that time, and on this particular occasion it was not Claiborne who was guilty of piracy, but Baltimore's men who were under instruction from Baltimore or his accredited representatives.

Law, however, at that time was not clearly defined, nice distinctions were not indulged in, aggression was met by aggression, and reprisal by reprisal. When Claiborne retaliated by arming his vessels, it appears he exercised the right which a man has to defend his castle and his goods. In the two subsequent engagements, in which his two ships fought Baltimore's, whether either sought the other, or the meetings were mutually intentional or accidental, matters not; Claiborne fought his enemy and his enemy fought him. It is only just to believe that each was convinced in his own mind as to the rectitude of his course; but, let it be observed, that Claiborne took nobody's property by force, nor filched anybody's goods.

As to his acts subsequent to the decision of the Lords, there is reason to believe he was convinced of the rectitude of his course in attempting to regain his property, despite the Lords' decision, and the probable reasons for his convictions have been abundantly set forth. We find that, after he had left Kent Island for England, to answer the charges made against him, Leonard Calvert, by night, with a party of forty, attacked and seized his settlement, with Evelin, taking possession of all his goods.

No euphemisms can possibly gloss over the duplicity and rascality of George Evelin; it is some satisfaction to read, however, that Calvert was persuaded by Evelin to this contemptible act, but not without some misgivings as to the justness of it. This occurred in February, 1638, whereas the decision of the Lords was in April, 1638.

In regard to Claiborne's association with Ingle, Father Russell quotes from another writer a statement which seems to be consistent with that of all the historians: that Claiborne and Ingle never planned any concerted action; that each took advantage of the other to further his own interest. Claiborne was after his property; he used Ingle to further his ends, and, probably,

dropped him when he attained them. While such an act is not admirable, it lies within the limits of pardonable human weakness. We can find no statement to the effect that Claiborne, personally, took part in the plundering of Maryland; it seems he was satisfied to take his island again and hold on to his own property.

As to his behaviour, in the reduction of Maryland along with Bennett, both Fiske and Latané as also others, affirm that he acted with moderation, and that he did not make any attempt to get back the island by force. Latané says: "Both Bennett and Claiborne acted with singular moderation," and Fiske, that Claiborne "in this the hour of his triumph, behaved without violence, nor do we find him again laying hands upon Kent Island." Neither Bennett, who had good reason to hate Berkeley, nor Claiborne, who had greater,—both by reason of the help Berkeley had given Calvert, when the latter with Berkeley's aid drove Claiborne out of Maryland after the Claiborne-Ingle invasion, and of the fact that Berkeley had turned over Palmer's Island, a possession of Claiborne's purchased from the Indians, into the hands of Edward Yarborough, of Accomac County,—attempted any violence toward Berkeley; he was unmolested by either and

was allowed to return to his plantation, where he remained during the entire period of the provisional government.

Latané says that Claiborne, "in spite of all the civil disturbances which occurred at that time between Catholics and Protestants, and which have been fastened upon Claiborne, had very little to do with the affairs of the Maryland province." He affirms that, after careful search of the records, Claiborne was only found to have been twice in Maryland after the reduction, and on each occasion he was in company with Bennett, upon legitimate business as Commissioners.

These are not the views of Father Russell:

> If, indeed, Claiborne's intentions regarding Maryland were so benevolent and magnanimous, and no hope of the recovery of Kent burned within him, what is the meaning of the Fourth and Fifth Sections of the Virginia Articles of Surrender, arranged by himself and Bennett, that "Virginia shall have and enjoy the ancient bounds and limits granted by the charters of former Kings, etc."?

The meaning is, that he wanted his island back again, and he proceeded to get it through due process of authority, and not by force. The answer is too evident. But, what must surprise any reader is that, when he had the province in

his hand, he did not take the island by force and crush all resistance with a mailed fist. This is the one inconsistent act of Claiborne's career, and is not to be squared with his obvious character and antecedent performances.

There are few men who would have acted with such moderation or failed to take ruthless revenge against the enemies who had despoiled them, but, maybe, in that "infinite depth of subtlety, cunning, and craft," which Father Russell attributes to him, there lay a "matchless finesse and policy" which has been suspected, but not discovered at the end of two hundred and twenty-nine years. A review of the facts seems to justify the opinion of Latané and Fiske.

As to his inciting the Indians against the Marylanders, that matter has been disposed of conclusively.

Claiborne was ever regarded by the Catholics of Maryland as their arch enemy, and he is referred to in Catholic school books as a heretic. The quotations from Father Russell show him to share those prejudices, and it is not unnatural.

Scharf's *History of Maryland*, quoting Davis, says: "Claiborne, undoubtedly, was an Episcopalian"; it is certain that he affiliated with the democratic party in Jamestown, to use an ana-

chronism, but that is practically what the "Country Party" was; and we find him amongst that group of insurrectionists who deposed Governor Harvey. He was, apparently, an intimate friend of Mathews, who used personal violence toward Governor Harvey, and in 1644, we see him declaring in favour of the Parliamentary Party. In those days, religion and politics were very generally united. Political groups were generally composed of people of the same religious faith.

But a careful perusal of Claiborne's attitude toward the Catholics of Maryland fails to justify the conviction that any act of his was directed against them, as Catholics. Lord Baltimore was his arch-enemy, and he was a Catholic, and that fact probably tinctured his attitude towards the whole Colony, but to repeat, there is no reason to believe that any act of aggression on his part was inspired solely or primarily by hatred of the Catholics. They stood in the way of the achievement of his desire, and the possession of his property. No one could expect him to be their friend; they were certainly his enemies.

No one can read the heart of man except God, yet there are not lacking those who attempt to read the heart of Claiborne, and attribute to him impulses and purposes which events do not justify.

Excerpts from his letter to Sir John Coke, in the matter of the naval engagement between his vessel and Baltimore's on May 10, 1635, seem to show he was a man who could call upon God in a reverent manner, for deliverance from his enemies. In this he followed the illustrious example of one of the great kings of Israel, a man honoured for wisdom, justice, and piety. The letter runs, in part:

EVER HONORED SIR:

. . . And behold more tumults and broyles, wrongs and oppressions perpetrated with a high hand and not without undue courses in alteration of Government and much violence acted as hath showed itself in the effusion of native bloud. Undoubtedly God will make a way for his glory through the injustice of men . . . in which I shall possess patience untill it shall please God to move his Maj^ties Royal heart and the Lords' minds to relieve and support as men wronged with as grievous oppressions as ever Englishmen endured at the hands of their countrymen. . . . In the interim we put up a supplication to the King of Kings to deliver us from them. I humbly take my leave and remain,

Your most humble servant,

WILLIAM CLAYBORNE.

ELIZ. CITY, May 23rd, 1635.
(*Virginia Carolorun Neill*)

This letter has the ring of sincerity.

The remarks of Browne are worthy of some notice. Browne affirms he was a Churchman who turned Puritan. He never became a Puritan; he apparently was never in favour of the expulsion of the Puritans from the Colony and his political affiliations were Puritan, but he remained an Episcopalian.

Under Charles I. all Englishmen were, primarily, Royalists; some later became Parliamentarians. Amongst the latter was Claiborne, who, though an aristocrat of aristocrats and a Cavalier, had, from the time of his association with the Virginia Company, been a member of the Country Party, as we have seen, and was inclined toward independence of thought and deed. As repeatedly stated, he openly declared in favour of the Parliamentary Party, in 1644, and in that respect was like many other Englishmen of Jamestown and England, who have not been branded as turncoats. The necessity of making his own way, and some experience with the favour of princes, may have coloured his Cavalier views or altered them. It is fair to give him credit for sincerity.

Father Russell argues that, though Claiborne was in Virginia at the time he was commissioned by Parliament to reduce Virginia and Maryland, he remained there with malice prepense, since

it was wiser to proclaim his change in political faith there than in the presence of Parliament, where he would meet with neither sympathy nor credence. He would leave the matter to Bennett, who Father Russell implies was in England at the time, though Latané (*loc. cit.*, p. 51) affirms, "Bennett and Claiborne, who were in Virginia at the time, probably knew nothing of their appointment until the expedition arrived there." If Latané is correct, Father Russell's remarks on the point lose their interest.

Browne is correct, in saying he held office under the King, also subsequently under Cromwell, though the imputations as to undue influence in getting himself appointed under Cromwell are not supported, unless Latané is incorrect.

Browne regrets "that Claiborne had not used directer methods; that he had not sailed under fewer flags, and that, when hard knocks were going, he had not stayed and taken his share, instead of running off to Virginia and leaving others to do the fighting."

Claiborne's methods were direct enough; he fought Baltimore openly on the seas; he invaded Maryland openly enough with Ingle; he reduced Maryland without subterfuge and without loss of time, in company with Bennett and Curtis;

anything more direct or open than these acts it is hard to comprehend—unless Browne refers to his sending his lieutenants to command his vessels. To accuse him of avoiding danger or undertaking on that score would be as reasonable as to impugn the courage of a superior officer who details a lieutenant to accomplish an act of military strategy.

This implied imputation against his courage or willingness to avoid "knocks" is the only one of this nature brought forward by any of his critics, as far as we know, and is completely negatived and offset; first, by its unreasonableness, and, secondly, by the historical facts well recorded that he led a force against the Indians at Candyak, now West Point, on the York and Pomunky rivers, in 1624, and defeated them, and again by the following excerpt from the *Virginia Magazine of History and Biography*, July, 1915, pp. 229–230:

To that end we have made choice of Capt. W^{m}. Claiborne, Esqr. to be Generall and Chief Commander in this expedition. And that the Governor be pleased to give him Commission whereby he may be enabled to order all things belonging to this license according as he shall receive Instructions and directions from tyme to tyme from the Governor and Council during his employm^{t} therein.

The remark of Browne is hardly worth confuting, but though Claiborne's military services to the Colony are well-known to all historians, it is well to cite them in this connection.

Father Russell's condemnation of Claiborne reaches its climax when he speaks of the letter of Claiborne addressed to Charles II., in 1677, just before his death. He refers to it as pitiful in its whining and grovelling, in its assumption of the character of an unrewarded partisan of His Majesty's father "of glorious memory," and as lacking utterly in the common decencies of self-respect, alluding to himself as a poor old servant of His Majesty's father and grandfather, holding up his old age for commiseration, and finally concluding with "humbly prostrating himself at His Majesty's feet for speedy justice in so lamentable a case."

Excerpts from Claiborne's letter, as quoted above, might produce a wrong impression, but, when the letter is read in its entirety (see below), it is fair to say that most of those who read it will recognize that it is written, in general, in the formulæ ordinarily used in addressing majesties at that period. But what Father Russell appears to particularly condemn is Claiborne's assumption of partisanship in favour of His Majesty's

father and grandfather. He had, indeed, been a loyal subject of the two kings and served them, but it is also true that, subsequently, he openly declared in favour of Parliament. He stated no more than what was true in his life, and his career was, doubtless, known to the King, since he had been Cromwell's commissioner.

The letter fails to impress us as it does Father Russell. Possibly it may impress others as it does him, but we doubt it. We see nothing hypocritical—whining—or grovelling in it.

Claiborne's letter to Charles II. in its entirety:

To the King's Most Excellent Majesty:

The humble Petition of Coll: Wm Claiborne, a Poor old servant of Your Majesty's Father and Grandfather,

Most humbly showeth,

That your Petitioner being one of the Counsell of State to Your Majesties Grandfather: and after also Secretary of State to your Father of Glorious Memory: by these Speciall Commands under the broad Seale of England unto the Governour of Virginia By whome he was sent out to discover & gaine a great trade of Beavers & furs which the Duch Nation then usurped to themselves: And accordingly the Petitioner att his owne charge and in his owne person performed & to that purpose discovered and planted the Isle of Kent: & the Bay of Chesapeack when then well succeeding: the old Lord Baltimore takeing

notice thereof: Provided a Patent for the same; Pretending it was unplanted and since by force of armes in a hostile manner though forbidden by the then King: Expelled the Petitioner and takeing away his Estate to the value of about Ten Thousand pounds Sterling in Goods Cattle Servants & Many Plantations thereon which the Grand Assembly of Virginia hath lately instanced & presented to Your Majestie as a great grievance of the Country: and hath been neare the utter undoeing of your Petitioner & family now in his old age: His younger years being spent in his discoveries & wars against the Indians as Chiefe Commander.

Wherefore your Petitioner Humbly prostrates himself at Your Majesties feet for speedy justice in so lamentable a case and he shall ever Pray.

W. Claiborne Snic.

We find one note characteristic of him in his last sentence, though it was formulary at that time: "and shall ever pray"—there spoke the tenacious Claiborne. He was nigh on to ninety years and if his love of fight had deserted him, his tenacity was still there. It would not be surprising if age had tempered his spirit and lessened his aggressiveness—age, the great creator of paradox!

> In life's last scenes what prodigies arise—
> Fears of the brave, follies of the wise;
> In Marlborough's eyes the tears of dotage flow,
> And Swift expires a driveller and a show.

After all these quotations, it seems only fair to cite the views of a few of those who have thought and written favourably of Claiborne.

We have seen that he did not lack friends. He had all the Virginians back of him, Berkeley excepted, the Council and Assembly, James I., Charles I., and the Commonwealth. In fact, all were his friends save Baltimore, the Marylanders, and a few Puritans.

Let us read the words of some critics who have looked with favour upon him and found him honest, brave, and tenacious of his rights. It appears to have remained for Campbell (*History of Virginia*) in 1860, about 183 years after his death, to write the first favourable opinion of him.

Referring to Burke's denunciation of Claiborne, as an unprincipled incendiary and an execrable villain, Campbell combats this view of Claiborne's character strongly, and proclaims Claiborne, in his opinion, the Champion and Defender of the territorial rights of Virginia.

John Esten Cooke, in *A History of the People*, p. 178, says:

> A certain gentleman named William Claiborne, a man of resolute temper and great ability. That is the true portrait of the famous Rebel who now grew so prominent. . . . This William Claiborne was a

gentleman of position, a man of energy, with strong passions, thought himself wronged, and never rested in harassing his enemies.

Page 215:

He was a man of strong will; haughty, implacable, "faithful to his friends and faithful to his enemies."

Whether Puritan or not, he had the acumen to see the political importance of that element at the time, and the skill to use it as a weapon. By the aid of it he aimed to achieve his ends, the redress of his personal grievances, the overthrow of his adversaries, and the control of the Province of Maryland.

Page 216: "Among the tall figures of the epoch in which he lived, he is one of the tallest and haughtiest."

Latané in 1895 (*loc. cit.*, p. 63):

Whereas it was ordained that the interest of one man should be sacrificed to the future of a great and prosperous commonwealth, we cannot help recognizing the strength of Claiborne's claims and admiring the resolution and persistency with which he defended them. He was thoroughly convinced of the justice of his cause, and received for a long time the encouragement of his King and always the hearty approval of the Virginians.

In spite of the abusive epithets that have been heaped upon him, there is no reason why the slightest stigma should attach to his personal character.

Fiske (*Old Virginia and Her Neighbours*), p. 286: "This William Claiborne, younger son of an ancient and honourable family in Westmoreland, had come to Virginia in 1621, and prospered greatly, acquiring large estates and winning the respect and confidence of his fellow planters." P. 295: ". . . The able and popular Secretary of State William Claiborne."

Again Latané (*loc. cit.*, p. 19): "Claiborne was a man of great influence in Virginia, and the charges brought against him and the order to seize his person had caused considerable indignation in that Colony. Nearly all the Councillors were his staunch personal friends."

Hester Dorsey Richardson, *Baltimore Sun*, January 21, 1903, says:

> Personally he was the most picturesque figure of his times, and has left a deeper impress upon the early history of Maryland than any of his contemporaries. He was a man of marked ability, and from the way in which he swayed those in power by force of his personal influence, we cannot fail to think of him but as a man of much charm of manner and grace of mind.

It is particularly interesting to quote these few words, since they are those of a woman—perhaps his sole critic of the gentle sex. They

form a striking contrast to others in point of view and expression.

Even some of the words of Father Russell quoted antecedently are a marked tribute to the man's mental and psychic powers.

Every man has his friends as well as enemies. Claiborne had many of both; his friends were of Virginia—his enemies of Maryland.

Rev. S. F. Streeter of Baltimore says:

> the hand of prejudice, prompted by personal subservience, traced on the tablet of history an inscription as unjust to the character and actions of the deceased, as unbecoming the dignity of the historic muse. It has been reserved for a humble inquirer, and a lover of truth, to erect a new cenotaph, which displays the name of Claiborne as worthy of honour and respect; and which ranks him who planted it in this country as a man of whom his descendants have every reason to be proud—one of the earliest pioneers of civilization; the first actual settler of the territory of Maryland, and among the most active and prominent citizens in the early days of Virginia, and one of the most remarkable men of his time.

De Courcey Thom (*loc. cit.*):

> Claiborne is of sturdy mould. His countenance is oval and open, and dominated by a bold, broad brow, brave eyes, firm mouth, and a somewhat broad and aquiline nose, as, indeed, his portrait shows. . . . A strong-willed, wily, courageous, pertinacious,

haughty and implacable man, he was "faithful to his friends, and faithful to his enemies."

Again:

That Claiborne achieved what he did, marks him as one of that great group of Englishmen who have adventured undauntedly, and have achieved many successes by their own great powers.

History of Talbot County, Maryland, 1661–1861, by Oswald Tilghman, Easton, Md., Williams & Wilkins Co., publishers:

It would be almost impossible to compile a biography of this worthy which should be altogether satisfactory. I have collected, however, some information of the man who made the first European settlement within the bounds of what is now Maryland—of the first white man of whom we have any knowledge who set his foot in this our own county of Talbot. From it you will find that you are fully justified in your declaration that William Claiborne has been hardly dealt with, not only by the early provincial authorities, but by the annalists and historians of Virginia and Maryland. Those authorities deprived him of his rights and property; these annalists and historians have attempted to deprive him of his good name. Mr. McMahon, who seems to have been at a loss what estimate to put upon him, and to have wavered between those opinions he himself had formed from his researches, and those which he derived from his predecessors, says:

"Of the character and temper of this man, it is

difficult for us at this day to form any just conceptions. The accounts which we have of him have been transmitted to us by writers who seem to have no end in view but to lavish upon him the most opprobrious epithets. The name of Machiavel has never been more shocking to moralists and politicians of affected purity, than was that of William Claiborne, to the first colonists of Maryland. Even historians call him the evil genius of the colony, and he unquestionably was if his unceasing efforts by courage and address to maintain the territory which his enterprise had discovered and planted entitle him to the name. . . ."

His defence has been taken up more seriously by recent writers, of whom may be mentioned the Rev. Dr. Ethan Allen and the late Sebastian F. Streeter. These authors have attempted, and successfully, to relieve the memory of Claiborne of the aspersions cast upon it.

These are some of the pen pictures of William Claiborne by artists who see the reverse of the shield.

Let us recapitulate the more important offices and commissions he held during his long life of eighty-nine or ninety years:

Royal Surveyor under James I.;

Successful commander in the Indian campaign of the Colonies in 1624;

Secretary of State of Virginia and *ex-officio* member of the Council, 1625–1638;

Commissioned by Governors Harvey, Yeardley, and Pott to trade and explore;

Commissioned to trade for Cloberry & Co., of London, 1627–1629;

Commissioned by King Charles I. to trade in the waters of the Chesapeake and contiguous waters through Sir William Alexander, in 1621;

Appointed Treasurer for life by Charles I., in 1642;

Commander-in-General of all the colonial forces in the campaign against the Indians, 1644–1645;

With Richard Ingle ruled Maryland 1644–1645;

Ruler of Maryland as Parliamentary Commissioner with Bennett, 1652;

Secretary of State under the Commonwealth throughout its duration, 1652–1658;

"During the summer of 1659, when it was known in Virginia that Richard Cromwell had given up the office of Protector, the Virginia Assembly, finding that there was no fixed and certain government in England elected Sir William Berkeley Governor of the Colony, and at his nomination confirmed Colonel William Claiborne Secretary of State";

"After the restoration of Charles II., was again

honoured with the Secretaryship of Virginia,[1] which he had first held about forty years before, and in 1666 was chosen a member of the Legislature." (*Founders of Maryland*, Neill, p. 57–58.)

This is the man upon whose head so much vituperation, abuse, and calumny have been heaped. Truly there are two sides to every question, and it matters not how judicial may be the mind and nature of a man, his views are more or less coloured by prejudice and self-interest.

To alter a noble quotation to fit this philosophy:

"There is a prejudice that shapes our views, rough hew them how we may."

It is high time that modern historians should, in writing of this virile personality, present both views of his character at once and leave judgment to impartial posterity.

While, in general, a man's character may be judged by his acts, it cannot always be so judged, any more than a man's character can always be

[1] Campbell (*History of Virginia*, p. 254) says: "Colonel William Claiborne, Secretary of State, was displaced by Thomas Ludwell, commissioned by the King" (Charles II.). There seems to be a discrepancy between this statement and that of Neill. A number of writers make the same statement as Campbell, whereas Neill seems to be the sole writer to say that Claiborne was again honoured with the Secretaryship of Virginia after the Restoration of Charles II. Doubtless both are correct, but which event antedated or followed the other does not appear clear.

judged by his face. A man's reputation, likewise, should be handled with gloved hands and not lightly and carelessly treated, even when he has been dead two hundred and thirty odd years. *De mortuis ac viventibus nil nisi verum* should be the motto of historians.

But there is one epithet which has been laid upon William Claiborne, which will, probably, persist for all time, it matters not what future historians may say in his defence, and that is the one of *Rebel.*[1]

Let us first define the term "rebel," and see, whether on analysis of the facts, Claiborne falls under that definition. A recognized lexicographer defines a rebel thus: "One who revolts from the government to which he owes allegiance either by openly renouncing the authority of that government, or by taking arms and openly opposing it. A rebel differs from an enemy, as the latter is one who does not owe allegiance to the government which he attacks."

[1] Tilghman, *History of Talbot County, Maryland*, vol. i., p. 520: "In the history of Virginia in the seventeenth century two great episodes are the most prominent and important—the great rebellion led by Bacon against Sir William Berkeley and Charles II., and this civil war in Maryland under Claiborne against Lord Baltimore and Charles I. Bacon's character and career have secured the renown to which they are entitled, while Claiborne's have been caricatured by political opponents and their modern echoes."

We maintain that Claiborne was never at any time a rebel to Baltimore, since at no time was he subject to Lord Baltimore's jurisdiction. But he was an enemy to Baltimore, since he owed no allegiance to the Maryland government which he attacked.

There were three acts of Claiborne upon which his enemies may have based the accusation of rebellion. The first was his retaliation in arming his vessels after the capture and confiscation of the *Longtail* and her cargo, and fighting the ships of Baltimore on April 23, 1635, and May 10, 1635. Sound reasons have been advanced to prove that Claiborne was not under the jurisdiction of Baltimore at the time of these engagements.

We have shown that Kent Island was an integral part of Virginia, was so admitted and claimed by the Assembly, and was represented in the House of Burgesses antecedent to these engagements; that Claiborne had a royal license to trade and that the King's commands to all men not to interfere with, arrest, or molest him or his associates or dependents were peremptory and clear. The King's word was law. Charles had clearly defined his attitude toward the contention that existed between Claiborne and Baltimore, and, finally, by referring the decision of the case to the Lords

Commissioners, had therefore impliedly admitted that, until that decision, Claiborne rightfully occupied and held Kent Island. Since the acts of aggression against the ships of Baltimore, in 1635, antedated that decision, which was not rendered until 1638, it is obvious that Claiborne could not on those occasions have committed rebellious acts against the Maryland government. He was, therefore, no rebel in this respect, but an enemy.

The next is his invasion of Maryland with Ingle. This took place after the decision of the Lords Commissioners. At the first blush it would appear his enemies had him on the hip there, but in very fact they did not. By the decision of the Lords Commissioners, Kent Island was adjudicated to the jurisdiction of Baltimore, and Claiborne no longer had any legal claim to it, for that was the decision of the final Court appointed by the King. When Claiborne then invaded Maryland with Ingle, he acted as an enemy and an invader, but not as a rebel against Baltimore, because he lived in Virginia and was under the jurisdiction of the King. He could not, therefore, have been guilty of rebellion against Baltimore in this case.

The third is the reduction of Maryland as Par-

liamentary Commissioner with Bennett. On that occasion he was the accredited representative of the recognized legal English Government, and as such, by no stretch of imagination or technicality could be considered a rebel to Baltimore.

By this name—Rebel—he is known in all histories; it is a catchy phrase and falls easily from the tongue and drops lightly from the pen. It appears to us unjust, but it is worthy of historical mention that many of his descendants have been allied with causes that have been deemed rebellions. Many of his descendants, in 1776, resisted the oppression of a King who attempted to tax his subjects without granting representation and undermine the foundations of constitutional liberty and rights. The war that resulted is now named in all histories a Revolution, but was, in fact, a Rebellion of the rankest type, and all those who took part in it verily deserve, from a technical and legal point of view, the Rebel's fate.

Yet the great Captain of that Rebellion is honoured of all men as the exponent of just resistance against injustice, oppression, and wrong, and is called by men the Father of his Country.

Amongst those who fought in that war were many of Claiborne's descendants, and two of them today wear the Button of the Society of the Cincinnati of the State of Virginia, in commemoration of the rebellion of their ancestors.

Again, in 1861, many of them, in pursuance of the same principle, laid down their lives, shed their blood, and gave their all for the great principle of Constitutional Liberty: the right to do what they would with their own, the right to life, liberty, and the pursuit of happiness—those rights which the English people first wrested from a tyrannical king at Runnymede, and which were subsequently crystallized in the words of that marvellous instrument from the pen of another great Virginian, the Declaration of Independence. This latter event has been called a Rebellion, and not a Revolution, because it was unsuccessful.

The matter of the Libel of Cloberry against Claiborne, of which a review has been made herein, in so far as it touches the character, and, more particularly, the reputation of Claiborne, may be dismissed with a few more words.

Until 1903, no mention of the Libel or Trial had been made in any of the histories that deal with the Claiborne-Baltimore controversy. It

seems attention was first called to it in the Sunday issue of a Baltimore daily, to wit, the *Baltimore Sun*, and it was heralded as new matter of great importance, throwing light upon the real character of Claiborne, which, as plainly implied by the historian (*sic*), was disclosed for the first time.

The reader can judge for himself the value of this "newly discovered" evidence, as set forth herein, or personally read it as transcribed by Mr. Marsden, in the *Archives of the Maryland Historical Society*, Baltimore, Md. (already suggested). It is pertinent, however, to emphasize the point that not even Claiborne's most vicious enemies in the past or present have ever made any reference to the matter, as bearing on his character, and that if it had been of much value, it would, most probably, have been unearthed before 1903.

Moreover, let it be remarked that, whereas, the proceedings before Judge Marten were held for the "King against Claiborne" in 1638–39, Charles either had never heard of them, or must have dismissed them as unworthy of consideration, since shortly thereafter, in 1642, he conferred a great honour on Claiborne, by appointing him Treasurer of the Colony for *life*.

Subsequent to this, honours were conferred on him by his fellow Virginians, even by Berkeley,

by Cromwell, and after the Restoration. Thus, this attempt, also, to besmirch Claiborne's reputation and name falls before the test of history—and time.

CHAPTER XIII

CONCLUSION

TO the axiom that "where there is smoke there must be fire" it is hard to give denial. Nevertheless, glittering generalities should not be indulged in in science; they are essentially antagonistic to it. Yet there must have been sound reasons why the subject of this sketch should have inspired such animosity and such devotion as he did—the one quality in his enemies, the other in his friends. The main reason appears to have been a remarkably strong personality, which to his enemies was exasperating and irritating, and to his friends equally attractive and compelling.

A certain court influence has several times been mentioned in these pages as explanation, in part, of the appointment of Claiborne as Royal Surveyor to the Colony. But when we look to the spirit and wording of the first and second letters of Charles I., touching the rights of Claiborne and

his Colony to the possession of *Kentish* Island, as Charles called it, and the stern and peremptory demand in his second letter to Baltimore, "to leave Claiborne alone in peace until the decision of the Lords Commissioners," not to mention the angry reference to Baltimore's disregard of the orders and commands contained in the first letter, we read between the lines more than court influence.

We read a firm conviction of the rectitude of Claiborne's course and the justness of his claims, as well as a personal bias in his favour. And then, finally, when after the passage of the Bill of Attainder, and the decision of the Lords Commissioners, Charles appoints Claiborne Treasurer for *life*, the question no longer seems open to doubt. Either he twisted this King like a cord around his finger, or Charles was bound to him by considerations of affection. In either case, a tribute was paid to his personality.

But our surprise is again excited when we read that Cromwell, the Man of Iron, after the death of Charles, appoints this courtier as Commissioner to reduce the principality from which he had been expelled as a pirate and a murderer.

There is a tradition that Cromwell was a personal friend of Claiborne's, but it does not appear

so from written history. He must, however, have known of him and been acquainted with his force of character, for Cromwell knew men as few men know them. It is unlikely that Cromwell would appoint as one of his representatives a man who would turn his coat at the dictation of influence, under pressure, or to suit his private ends. Thus the Man of Iron fell before his charm like the fickle and pampered King. And then, see how he was honoured again by election to his old office of Secretary, on the establishment of the Commonwealth, and how he held that office to its end.

Claiborne has been likewise accused of being a trimmer, of using everyone to his purpose without being faithful to any but himself. A dispassionate analysis of the facts renders this accusation highly improbable. If, however, it is true, then he deceived James I., Charles I., Cromwell, the Virginia Assembly, and his inveterate personal enemy Berkeley. The thing is inconceivable. It seems more likely, indeed highly probable, that his ability, singleness of purpose, unswerving directness, and tenacity commended him to friend and foe alike. To these qualities, fairness and honesty of purpose, must be added, for so many men would not

select one who was lacking in probity and uprightness to handle matters of State and promote the welfare of a people. All of these men were not fools, and probably none were. They knew an able, fearless, and upright man when they saw one, and all picked the same one to do their work.

The reader must agree that this is no man for prejudiced historians to dismiss incontinently with the epithets of rebel, pirate, and murderer. But, while every other epithet in the calendar has been heaped upon him, it has never yet been recorded that any man has ever called him a fool.

Though in the end Claiborne lost—lost his island and his heart's desire—he, nevertheless, was indemnified by extensive land grants by Virginia in recognition of his services and for the loss of Kent Island, aggregating more than the acreage of the "Lost Isle." From having been, in the commencement of his career, an inconspicuous private gentleman with no means save "his good broadsword," intelligence, vigour, and a noble name, he rounded his career wealthy in acres, honoured by King, rulers, and his own fellow Virginians, and played a conspicuous rôle amongst the tall and haughty figures in the drama of which he was part. His name will never die from the records of the pioneer history of Virginia

and Maryland. It is safe to say he outstripped all the Claibornes—both those who went before and those who have come after him.

Living in troublous times, in an age when the *lex talionis* was the code of action if not of ethics, amongst governments and individuals, he accepted the gage of battle thrown him, fought his enemies to the death with their own weapons, and lived and died under that code.

It is regrettable that no point or township on Kent Island has ever been named after Claiborne, to perpetuate his name locally; but, in recent years, a town has arisen, as by "the stroke of an enchanter's wand," on Eastern Bay, and directly across from Kent Island, and its name is Claiborne. It is the terminus of the Baltimore & Eastern Shore Railroad, and it was named and chartered by General Joseph B. Seth, in 1886 (see Appendix, note 9). It appears on the maps of Maryland published subsequently to that date.

Shortly after Claiborne's last appeal to Charles II. for the recovery of his island, which met with no response, he died, according to several writers, in New Kent County, in 1677, in the fear of God and in favour with some men, mostly Virginians (see Appendix). He had organized and settled Kent County twenty years before and had named

it in remembrance of his old settlement on the Chesapeake. It seems certain, however, that he was laid to rest at Romancoke, the family seat near West Point on the York River, which was part of the grant given him by the Virginia Assembly in recognition of his military services against the Indians, in 1624. His total land holdings were forty-five thousand acres (De Courcy Thom).

Over his grave a slab was erected bearing his name, titles, and the Claiborne arms: on a field argent three chevronels interlaced in base sable; a chief of the last.

His descendants in men and women have been estimated at many thousands. Amongst them have been those who have served their country in the halls of Legislature, as governors, as orators, soldiers, sailors, in the law, in medicine, and in the ministry. The names of many are written on the imperishable records of American manhood, achievement, and valour, and though he has been villified and defamed unjustly by enemies dead and alive, not one of his descendants should take aught to himself but honour from the fact that the blood of that virile Englishman runs in his veins.

He was the avatar of that self-centred indi-

vidualism which marked the men of his epoch in the New World, and, more particularly, those of the region where he lived—the South—the individualism which produced democracy and which, by agglutination, later formed self-governing municipalities and, ultimately, states—the individualism which created the idea of States' Rights, whereby this country was once disrupted, and which seems still to persist.

He was a clever and resourceful politician, an accomplished courtier who knew how to wear the silken glove over the iron hand; a man of powerful, magnetic, and compelling personality, who bound his friends to him with hooks of steel, harassed and exasperated his enemies with undying pertinacity, and met aggression with aggression, reprisal with reprisal. He was proud, imperious, persistent, indomitable; he loved Virginia with a burning love that still lives in the hearts of his descendants. He was the champion and defender of her territorial rights, of constitutional and personal liberty, and, finally, was essentially and altogether human.

The Knight is dust—
His sword is rust—
His soul is with the Saints we trust.

APPENDIX

(1) "William Claiborne, at one time, as already mentioned, Secretary of Virginia, a Commissioner of Parliament, and prominent in many ways, had a brother, who occupied a shop on Ludgate Hill, in London, where he was a dealer in clothing.

"As the Claiborne or Cleburne family from which these two brothers were directly sprung was one of the most ancient in the English County of Westmoreland, the adoption of a trade by one of them as a pursuit in life, thus imitating the example of Nicholas Ferrar and so many other young men of gentle descent, serves to show . . . the greater social dignity of the ordinary crafts in the England of that day than in the England of this. . . .

"In preferring to emigrate to Virginia rather than follow in the footsteps of his brother in London, William Claiborne discloses how powerful was the influence leading so many young Englishmen in those times to seek their fortunes in the Colony." [1]

The reference here must be to Robert, the younger brother of William and Thomas. We have seen that the latter, the eldest son, succeeded Edmund. If there were any other brothers, they are not mentioned by O'Hart.

[1] *Social Life in Virginia in the Seventeenth Century*, Phillip A. Bruce, pp. 87–88.

Bruce speaks of William preferring to emigrate to Virginia rather than follow the example of his brother who went into trade. What is surprising is not that William, the elder, preferred to try the New World for the exploitation of his energies, but that Robert, the younger, did not follow the example of his elder brother.

The law of primogeniture, while it has preserved the aristocracy of England, has wrought much havoc amongst noble families. Robert could not have inherited the vigour, ambition, and restlessness of his brother. His descendants, if he had any, have been lost in the mists of years. Weakness passes and strength perpetuates itself.

Apropos of this matter, Bruce remarks in a footnote (*loc. cit.*) that Governor Harvey in a letter to Lord Dorchester, dated May 29, 1630, described Robert Cleburne as a "stocking-seller"; "As Harvey was an enemy of Claiborne on account of a violent difference of opinion as to Baltimore's right to colonize Maryland, this term applied to Claiborne's brother was used contemptuously, without, perhaps, expressing the exact truth." Harvey had not forgotten the time when Mathews, Claiborne, et alii deposed him and sent him to England to answer charges of malfeasance of office.

(2) "In 1631, William Claiborne transferred to Kent Island, in the Chesapeake Bay, a small herd which had been ranging at Kecoughton."[1]

(3) The love and desire of William Claiborne for Kent Island can only be described as pathetic. As has been shown, the year before his death he made

[1] Bruce, *Economic History of Virginia*, vol. i., p. 298.

one last appeal, supported still by the Colony, for its possession, and it is significant that soon after this final failure he was gathered to his fathers.

Truly he might have said, as Queen Mary did of Calais, Kent Island would be found written on his heart when he was dead.

His intense desire for the island has been explained in the traditions of the family by his love for his daughter Jane, whom he wished to make mistress of a great estate where she could reign like a queen. But there is no other reason for this than shadowy tradition.

John Esten Cooke, who may be described as either a romantic historian or an historical romancer, has explained the great animosity between Claiborne and Baltimore by the rivalry which existed between Thomas Claiborne, the first son of Edmund (brother of William) and Lord Baltimore for the hand of Frances Lowther, daughter of Sir Gerard Lowther. Thomas Claiborne was successful and Baltimore, the "young Lochinvar who came out of the west," lost. The Baltimores, from that time forth, swore enmity to the clan of Claiborne. For this there seems no better ground than the imagination and mental trend of Cooke. De Courcy Thom asks in discussing this incident, "whether he hears the rustle of a skirt" in the drama. It is a curious fact, and against this fancy, that William Claiborne gave one of his sons, the third, Leonard, the name of his deadly enemy.

(4) "Edmundson, a Quaker preacher, in 1673, met him [William Claiborne] at a religious meeting and was invited to call at his house.

"The preacher in his journal says: 'He was a solid

wise man, received the truth and died in the same, leaving two Friends his executors.'"[1]

In Cliburn Church there is a brass memorial tablet dedicated to the memory of William Claiborne. It was placed there by the late Admiral C. J. Cleborne of the U. S. N. The inscription runs as follows:

"In super et in memoriam Gulielmi de Cleyborne seu Claiborne primi et Secretis Coloniae Virginiensis qui anno vixit MDCXXVII."

(5) Authorities differ as to the identity of the wife of William Claiborne. According to O'Hart, she was Jane Buller of London, and his daughter was named Jane, according to the same authority. But Hester Dorsay Richardson, in the Baltimore *Sun* of June 20, 1903, points out the possibility of Claiborne's having been twice married. For it is certain that in November, 1647, there was a grant of seven hundred acres of land made to "Elizabeth Claiborne, the wife of Capt. William Claiborne, Esq., his Majesty's Treasurer of this Colony of Virginia."

It seems highly probable he was married twice, for he must have been at least sixty years of age at the time of the above grant, since he was born in 1587. If he had any children by this second marriage, granting it occurred, no mention of them has appeared.

It is true that Leonard Calvert, in a letter to his brother Cecilius, Lord Baltimore, 1638, speaks of John Boteler, or Butler, as brother-in-law to William Claiborne. But when one notes the similarity between Boteler or Butler and Buller, it seems very probable Leonard Calvert confused the two names. Furthermore, spelling was more or less phonetic in

[1] *The Virginia Company of London*, p. 225, Neill.

those days—even the spelling of proper names: compare the variety of ways in which the name of Cleborne was spelt. The name Buller has come down in the family, as instanced in Major Buller Claiborne, who was on General Lincoln's staff during the Revolution, through whom the writer, collaterally, wears the Button of the Society of the Cincinnati of the State of Virginia. It seems quite certain that Wm. Claiborne's descendants, mentioned in the family records, are descended from Jane Buller—in further proof, his daughter was named Jane.

(6) First Naval Fight.

On May 3, 1904, the New York *Evening Sun* published a clipping from the Cecil (Md.) *Star* of April 23, 1904, in which attention was called to the fact that on April 23, 1635, 269 years antecedently, the first naval engagement, fought on the inland waters of America, took place. The writer of the *Star* made a number of statements in that article which the present writer attempted to combat. Those statements concerned the contention between Lord Baltimore and William Claiborne for the possession of Kent Island. The point of view of the writer of the *Star* was, approximately, that of most writers on this subject.

It seems to the writer of the present sketch to be worth recording in the official circles of the Department of the Navy that that fight was the first naval fight occurring in the waters of the North American Continent, between English-speaking people.

The writer replied to the publication of the *Sun*, by a letter in the issue of May 23, 1904, in which he set forth in part the views expressed in this sketch and concluded with these words:

"The first naval fight, therefore, that took place in the inland waters or any other waters of North America was between William Claiborne's forces and those of Lord Baltimore, in which William Claiborne upheld the right, fought for constitutional liberty and the privilege of doing what he would with his own."

(7) CLIBBORN.

"In these troublous times it was said 'that a Cleburne might ride in safety from one end of the County to the other.'"[1]

Some amusing stories are told of their popularity with the peasantry and with the Raparee Chief, "Galloping Hogan," and his band. Armstead tells the following of John Clibborn of Moate Castle, who was such a friend and champion of the Quakers that he built them a meeting-house (still standing) within his castle grounds. His life was constantly endangered by succouring these people: "On one occasion he was dragged by the hair of his head to the place of execution by some Tories, when fortunately another party of Tyr Connell's men arrived, and inquiring 'who have you got there?' were answered, 'Clibborn!' 'Clibborn!' echoed they, 'a hair of his head shall not be touched,' and they bore him off in triumph."[2]

"The Cleburnes are not found amongst the adventurers for land in Ireland; they purchased all their estates and were so free from 'Land Hunger,' that the Irish felt kindly toward them."

The above incident is likewise mentioned in *Six Generations in Ireland*, by Jane M. Richardson,

[1] O'Hart, *loc. cit.*, p. 114.

[2] *Select. Miscel.*, vol. i., 197.

London, Edward Hicks, Jan., 1894, 14 Bishop's Gate Without.

(8) The Village of Claiborne.

The Village of Claiborne is situated on Eastern Bay, Maryland, directly across from Kent Island, and the adjoining property, known as Wade's Point, is the terminus of the Baltimore & Eastern Shore Railroad, charter for which was obtained by General Joseph B. Seth, 1886.

The station, which subsequently grew into a village, was named Claiborne by General Seth, as shown by excerpts from letters from him and Colonel Oswald Tilghman, appended below, wherein the reason for the choice of the name is given. The State of Maryland owes a debt of gratitude to General Seth for his fidelity to the truth, and history will proclaim him her fearless champion.

(Copy of letter from General Joseph B. Seth, published by permission.)

Baltimore, Oct. 4, 1916.

Mr. DeCourcy W. Thom,
Baltimore, Maryland.

My dear Sir:

I obtained charter for the Baltimore and Eastern Shore Railroad to run from Broad Cove on Eastern Bay to Ocean City in 1886, and was President of the Company for six years. I was not only President but I had upon me the arranging the entire financing and a general supervision of the route and construction.

I have long been an admirer of William Claiborne and have felt that he was unjustly treated by the Maryland Colony. He had a perfectly legal grant

from the Virginia Colony and made his settlement on Kent Island, I think in 1627, (1631–De C. T.) seven years before Lord Baltimore arrived, and he ought not to have been disturbed. Maryland has made no effort to commemorate his name.

This terminus of the road on Eastern Bay was directly across from Kent Island and the adjoining property known as Wade's Point, was patented by one of his followers, Zacchariah Wade, so I concluded to name that station, which I was sure would grow into a Town, as it has, Claiborne. I also named the first steamer we had *William Claiborne*. The responsibility of naming it was with me and I did it out of admiration for the man that I thought had been unjustly treated and who, from his whole record, showed that he was a man of force and strong character.

(*Signed*) Joseph B. Seth.

(Copy of letter from Colonel Oswald Tilghman.)

Baltimore, Oct. 5, 1916.

DeCourcy W. Thom. Esq.:

. . . Replying to your inquiries regarding the village of Claiborne, I beg to say, that it was named by Gen'l Joseph B. Seth of Easton, the first President of the Baltimore, Chesapeake and Atlantic Railway, when the western terminus of that road was established at this point, upon the shores of Eastern Bay, in 1890. Gen'l Seth was a great admirer of the character of William Claiborne and thought that he had been hardly dealt with by Lord Baltimore.

(*Signed*) Oswald Tilghman.

(9) Kent Island Fort.[1]

[1] Johns Hopkins University, *Hist. and Political Studies*, xxi., 364.

"Claiborne did not spend all his time on Kent Island, though he had a private plantation there called Craford, but continued to possess his Virginia residence at Hampton or Kecoughton, and to sit in the Virginia Council."

(10) DAVIS'S *Day Star*, p. 44:

"Claiborne's settlement was at Kent Point; nearby were the mill and fort. Baltimore gave the manor to Leonard Calvert for his services in the conquest of the island and the latter assigned it to Captain Giles Brent, 7 September, 1640, in whose family it remained for some generations. Craford stood near Craney Creek, now a pond, and is frequently mentioned in old land records.

"Bozman suggests that the Fort was probably situated on the first navigable creek lying on the left hand in ascending the Eastern Bay passing Kent Point. The local tradition agrees with this and bits of glazed bricks can be picked up on the supposed site."[1]

(11) KENT FORT MANOR.[2]

7th January, 1639–40—"I would have you to lay out for Giles Brent, gent., Treasurer of the Council of the Province, *one thousand acres of land lyeing nearest together about Kent Fort* and one thousand acres more where he shall desire it, and to certifie Mr. Secretary what you shall doe therein"—

To Robert Clark, Deputy Surveyor.

1st September, 1640:—"Laid out for Giles Brent, gent., one neck of Land lyeing nearest together about Kent Fort, bounding on the East, West and South

[1] Johns Hopkins University, *Hist. and Political Studies*, xxi., p. 364.

[2] Annapolis, Md., *Land Office Records*, Liber i., folios 46–47.

with Chesapeake bay: on the North with a Line drawn through the woods Streight East beginning at the Northeastermost branch of the Creek called North West Creek and ending in a swamp on the East Side of the said Neck in Chesapeake bay and contains on the whole 1000 acres or thereabouts."

5th September, 1640:—"I would have you draw a Patent to Mr. Giles Brent of the Manor of Kent Fort bounding it as in the Survey is certified—to draw it according to the usual president of a manor for the yearly rent of two barrels of corne to be paid at Kent Mill and this shall be your warrant."

(12) Kent Fort Manor.

(St. Mary's County Rent Rolls, etc.)

Isle of Kent County.

"The Forte Hundred contains the Manor of Kent Forte."

This Manor appears recorded in the later Rent Rolls of Talbot and Queen Anne's County, Maryland.

It adjoined a tract called "Little Thicket," and derived its name from old Kent Fort, where Claiborne erected his old palisade fort (probably near what is now called "Kent Point").

(13) Baltimore Professor and Friend Discover the Place where Claiborne Lived.

"An event of interest to all students of Colonial Maryland is the positive identification of Captain William Claiborne's settlement on Kent Island, by Dr. Bernard C. Steiner, associate in history at Johns Hopkins University, and De Courcy W. Thom of Baltimore and Blakeford.

"Few chapters of Colonial history present more vividly the struggles of early settlers against untoward conditions than the career of William Claiborne, a

persistent and successful contestant with Lord Baltimore for the right of governing on Kent Island.

. . . . . .

"Messrs. Thom and Steiner, in the summer of 1904, drove along the main road of the Island, trying to identify the site of Kent Fort. The island is somewhat less than twenty miles in length from Love Point, the railway terminus to Kent Point, and its greatest width may be ten to twelve miles. The southern part, however, is only about a mile wide.

"They went to the house of J. Frank Legg and found that they were in Kent Fort Manor. Mr. Legg went with them to show the point which tradition marked as the site of Claiborne's settlement. They found it on a slight elevation back of an old landing on the bend of a navigable creek about Kent Point. To the north of the site, now known as Chew's Gardens and cultivated as a field, in a valley which was probably once an inlet, so that the site was surrounded on three sides by water, they found several fragments, of glazed bricks about seventy yards from the shore, which may have been part of the Brent Manor house."[1]

(14) Claiborne of Kent

By the Bentztown Bard

Hi-dando, di-dando! Blow, bugles of Kent!
Of all the fine gentlemen heav'n ever sent,
Here's ruddy, swart Claiborne, the finest and best,
With lace at his wristbands and war in his breast—

[1] *History of Talbot County, Maryland*, 1661–1861, by Oswald Tilghman, Easton, Md., Williams and Wilkins Company, publishers.

A faithful Anglican, when kings were in vogue,
Who prayed like a Roundhead and fought like a rogue!

Hi-dando, di-dando! Blow softly, ring clear!
The barges are ready and Claiborne is here.
Away to the battle, with broadsword a-swing,
A dapper, fine fellow for Kent and for King,
With oath on the crimson dawn flushing the skies:
"For each stroke of this saber a Cavalier dies!"

Hi-dando, di-dando! Hurray for the day
That walks like a glory across the blue bay!
What leaping of hearts when the blunderbus roars!
What bending of backs to the stroke of the oars!
Blow, bugles of battle, the morning is sweet,
Though the sun may set red in the blood of defeat!

Hi-dando, di-dando! They've fought; they have lost!
With Claiborne afar, and the slow barges tost
On tides that will never return them with those
Who kissed in the dawn the red lips of each rose
That leaned in her love, with: "Good-by, and come home
From the rain of the battle, the roar of the foam!"

Hi-dando, di-dando! With Kent for his zone,
He'll make the King's Maryland the King's and his own!
Though lost be the battle, the chief will survive
To argue and parley and scheme and connive,
And win a brief triumph, to fade through the years,
With the Calverts deposed and sweet Maryland in tears!

Hi-dando, di-dando! The barges have gone
Like phantoms of mist on the ripples of dawn,
And sweethearts and daughters who bade them adieu
And under the roses, sweet Kentland, of you!
The logs of your cabins, old settlers, are strewn
In the mold of the forest from which they were hewn!

Hi-dando, di-dando! Swart men of the time
When swords rang together in valour's rude chime;
Brave leaders, stanch liegemen, have gone in their glee
From the councils of courage beneath the oak tree—
But Kent blooms in glory all down her sweet length
Because of their high-hearted spirit and strength!

Hi-dando, di-dando! No sound in the morn
Of bugles, except the glad ring of the horn
The hunters sound gayly across the fair glen
To summon the hounds and the merry young men,
And waken the shadows with notes that have fled
With the songs of the bargemen on lips that are dead!

Hi-dando, di-dando! Wake, Kentland, and sing!
He found you, and lost you; but, oh, when the spring
Sweeps sweet through your orchards, in gladness we call
Because, in your beauty, he found you at all,
And named you, and loved you, and left you to lie
A garden of glory full ripe to the sky!

Hi-dando, di-dando! His dust is afar
On the hills of the dawn and the vales of the star;
The battles are over, the bugles at rest,
The dream of sweet peace folds its wings o'er his breast:
For the Church, and the King, and the good that he meant
Let the red roses blossom for Claiborne of Kent!

(15) Kent Island.

By reference to the map to be found on page 1, Kent Island in the Chesapeake Bay, is seen to lie just opposite Annapolis. It is comprised in Queen Ann County, and is recorded as being on the eastern shore of the Bay. A letter from the State Board of Labour and Statistics of Maryland, describes Queen Ann County as a "beautiful and desirable land to live in, healthy, accessible to market, the soil fertile, easy to cultivate, farms well improved, roads good, schools and churches convenient for all the people, and taxes low." From Love Point, which is the northern extremity of the island, it is connected by steamboats with Baltimore. The area of Kent Island is about six square miles and its population fifteen hundred. Its physical characteristics were possibly appreciated by William Claiborne and this may account, to some extent, for his intense desire for it.

(16) Lord Baltimore.

There can be no doubt that the first Lord Baltimore was no ordinary man and he should be honoured as the first founder of Maryland. His face as shown in the portrait in the State House at Annapolis, exhibits a high degree of refinement and intelligence and speaks the honesty for which he was well known. He seems to have been respected and honoured as well by his opponents as his friends. That he had the respect and affection of his king is clear. His religious feelings were evidently sincere for no man even at that date could lay aside the Protestant religion and accept the stern and more rigorous Catholic, without being convinced of its truth and without being willing to make sacrifices for it. In a letter to his friend, Earl Strafford, he says: "All things, My Lord, in this

world pass away. Wife, children, honours, wealth, friends, and what else is dear to flesh and blood. They are but lent us until God please to call for them back again, that we may not esteem anything our own or set our hearts upon anything but Him alone, who only remains forever."

As to his son Cecilius Calvert, his reputation for Godliness and greatness appears to rest mainly upon his famous statute commonly known as "The Toleration Act" which was drawn by himself and was passed by the Assembly without amendment. The wording of that act shows him a God-fearing man, broad in intelligence, universal in sympathy, and mindful of the rights and convictions of others, but no thing in this world is perfect. We feel compelled to agree with Fiske that a statute which threatens Unitarians with death leaves something to be desired in the matter of toleration. In other respects, it appears that Cecilius Calvert was as wily a politician and clever a diplomat as any one could wish. His endeavours to placate the Puritans in Maryland, his invitation to them to come there and settle, particularly about the time when he feared that his Province would be taken away from him by the Commonwealth, shows that he was quite capable of acting with worldly wisdom. One writer has gone so far as to state that he even contemplated changing his religion, but any weakness which he may have shown along these lines is more than balanced by his great mind and human sympathy. He and Claiborne were well matched in tenacity of purpose, persistence, cleverness and resource, but he was a Prince of a Principality with power behind him and Claiborne was a simple gentleman with only his ability, his courage,

and the friends he himself had made. That Baltimore won and Claiborne lost may be explained partly on geographical lines and partly on the difference in their status. In the nature of things, Kent Island had to fall to Baltimore by reason of its geographical position but that does not influence the question of the moral and abstract right involved.

But this noble line of Baltimore was destined to extinction and to shame. In Burke's *Dormant and Extinct Peerages* it is stated that "Frederick, Seventh Baron Baltimore, born February 6, 1731–2, married 1753, Lady Diana Egerton, daughter of the Duke of Bridgewater, died without issue at Naples, Fourth September, 1771, when the title became extinct." "His Lordship had sold his estates before going abroad to Mr. John Trotter of Soho, London," but unhappily the last chapter in the life of the Seventh Baron did not close before dishonour had fallen upon a noble house.

4 Burrows' Reports, 2179, state:

"Friday, February 12, 1768, Lord Baltimore, Anne Darby (spinster), and Elizabeth Grieffenburgh (a married woman), were brought up by *habeas corpus* before Lord Mansfield in the Court of Kings Bench, having been previously committed, as being charged upon the oath of Sarah Woodcock, Lord Baltimore, with having feloniously ravished and carnally known her against her will and consent, and the two women with having feloniously assisted, aided, and abetted him in the rape. But," says the report, "the women were not charged either by the oath (of the prosecutrix) or (by the) warrant of commitment with being *present:* and therefore they were agreed to be only accessory before the fact.

"The counsel for the prosecutrix, declaring 'that the prosecution was carried on merely for the sake of public justice, and that they had no other wish than to obtain it' declined either to consent to or oppose Lord Baltimore being bailed, but left it entirely to the discretion of the court, to act as they should think proper, as their sole point in view was that his Lordship should be, at all events, amenable to justice.

"Lord Mansfield approved of their conduct. At the same time, he observed that Lord Baltimore's voluntary surrender was a strong indication that he had no intention of absconding from justice; the probability whereof was greatly heightened by the large property which he was known to possess of which he would incur a forfeiture by running away. Therefore let him be bailed by four mancupators in one thousand pounds a piece and himself in four thousand pounds to appear at the next Assizes and general Gaol-delivery for the County of Surrey. The women were bailed in four hundred pounds a piece."

In the above Records it is not stated that the Lord Baltimore referred to was Frederick the Seventh Baron, but it must have been he, as shown by the dates.

The following excerpt from Russell (*Maryland the Land of Sanctuary*) is apropos in this connection:

In the meantime Frederick, Lord Baltimore, had died (1771). He was the last of the Lords Baltimore. Having no legitimate heirs, his proprietary rights he bequeathed to Henry Harford, his illegitimate son. Of Frederick Calvert Morris says: "A fast young man and did not live to be an old one. His memory is not precious, and his deeds were anything but meritorious. . . . A man universally known to be one of the most licentious of his

times." "He was," says Browne, "a degenerate scion of a noble stock, a selfish and grasping voluptuary, who cared only for his Province, which he never visited, as a source of revenue for his pleasure. He added his name to the list of noble authors by an indifferent book of travels, and came near adding it also to the list of noble criminals, by figuring as the traverser in a discreditable trial for felony, of which, however, he was acquitted." Hall says of him, that he was "a selfish, disreputable, dissolute degenerate, neither ability nor character was even respectable."

In Harpers' *Encyclopedia of United States History*, vol. i., p. 263, an historical sketch of the Baltimore family ends thus: "The last representative of the Baltimore family was found in a debtors' prison in England in 1860 by Colonel Angus McDonald of Virginia, where he had been confined for twenty years." Unhappily, the account does not state the identity of this unfortunate. It could not, however, have been one of the Lords Baltimore, because the title became extinct, as has been seen, in 1771.

The Bill of Attainder was passed by the Maryland Assembly in 1638, and the last Baltimore died in 1771. Just 133 years after the iniquitous, illegal, and unjust proclamation instigated by Calvert and passed by the Assembly against William Claiborne, whereby he was impoverished and outlawed, the last Baltimore died in poverty and his name passed forever from history. But the name of Claiborne still lives with honour in the records of American history; the men who have borne it have helped to lay the foundations of the American Republic, and cement them with their blood. There is reason to believe that some of the descendants of Leonard Calvert are still living but the name as a factor in American institutions has disappeared from the face of the earth. In these facts we read the revenge of history. As Byron says:

"Time at last sets all things even;
And, if we do but watch the hour,
There never yet was human power
Which could evade if unforgiven
The patient search and vigil long
Of him who treasures up a wrong."

Which is a pagan but true saying.

As is known, Cecilius Calvert was never in America himself, but ruled his province through his brother Leonard. Leonard was a faithful agent of his brother and showed himself to be a man of ability and though his character is not entitled to any extensive investigation in these notes, let it not be forgotten, as quoted from De Courcy Thom, that when on February 26, 1638, he sailed for Kent Island with thirty musketeers, "he is said to have encouraged other men to accompany him and pillage and even to have contracted to buy the plunder a certain man might make." It has already been pointed out that he balked at the first suggestions of Evelin to make this foray but subsequently yielded to the latter's eloquence, whether through weakness or viciousness, deponent sayeth not. It is regrettable to have to record these facts after so long a time; but it must not be forgotten that through men bearing the name of Calvert Claiborne was vilified, abused, and outlawed during his life and his name besmirched in history.

Let justice be done if the Heavens fall.

(17) The photographs of Cliburn Hall and Cliburn Church are reproductions of picture post-cards. The author endeavored to have some taken specially by a photographer in Penrith, a town in the vicinity of Cliburn, but the only photographer in the town at

the time he wrote, stated he was unable to take any; first, because the weather was very cloudy and would probably remain so for several months and secondly, because he momentarily expected to be called into military service; but the pictures shown are an excellent reproduction of the Hall and the Church. The one of the rear view of the Hall shows at the same time the two ancient oaks which are supposed to be the remnants of Englewood Forest. A modern outhouse stands just in the way of the entrance to the basement or kitchen, so that the arms cut over the door cannot be seen. The picture of the front of the house shows one of the towers to the left wherein there is a room which by reason of its smallness, may be supposed to have been the room of William Claiborne, seeing he was the second son. Just over the head of the woman seen standing at the door, is the square of sandstone whereon the arms are cut, together with the inscription which has been quoted. They cannot be deciphered in the picture but can be deciphered from the courtyard though they are fast fading away. The modern roof which has been put upon the building destroys completely the castellar character which according to authorities, the building formerly possessed.

Of the two pictures of William Claiborne, one is a photograph of the life-size painting hanging in the library of the Capitol at Richmond. This portrait was exhibited at the Jamestown exhibition in 1907, and was presented to the State Library by some of the descendants of William Claiborne. It was painted by Miss Mary R. Gilmer, a talented young Virginian. She regards it as her masterpiece. According to her, it is as near as possible, a reproduction of a woodcut of the miniature in London, show-

WILLIAM CLAIBORNE OF VIRGINIA, SECRETARY OF STATE

Photographed from a painting in the Library of the State Capitol, Richmond, Va.

BOSTON PUBLIC LIBRARY

ing only the head and a little of the shoulders. She sought long for a model whose body would suit the head and shoulders but the suit which the figures wear is historically accurate in every detail. The table-box and candle-stick are likewise historically accurate. The author desires to express his thanks to Miss Gilmer and Mr. H. R. McIlwaine, Virginian State Librarian, for their assistance and courtesy in the acquisition of these facts. The other picture is a photograph of a portrait in the possession of Major W. C. C. Claiborne, of New Orleans, La., and is said to be a reproduction of the one in London already referred to. The portrait of Edmund Claiborne is a copy of the orginal in possession of Sir John Lowther, a relative of the family, done by a famous Dutch artist.

(18) VIKING.[1]

"The word *viking* in the sense in which it is used to-day is derived from the Icelandic (old Norse) *Vikingr* (m.) signifying simply, a sea rover or pirate.

"During the Saga Age (900–1050) in the beginning of Norse literature *Vikingr* is not as a rule used to designate any class of men. Almost every young Icelander of sufficient means and position and a very large number of young Norsemen made one or more viking expeditions. We read of such a one that he went *a-viking*. The procedure was almost a recognized part of education and was analogous to the grand tour made by our great-grandfathers in the eighteenth century.

"The exact etymology of *vikingr* itself is not certain, for we do not know whether *vik* is used in a general sense (bay, harbour) or in a particular sense

[1] *British Encyclopædia*, 11th edition.

as the *Vik*, the Skaggerack, etc. . . . At the same time the significance which the word *viking* has had in our language is due in part to a false etymology connecting the word with 'king,' the effect of which still remains in the customary pronunciation vi-king instead of vik-ing."

In the true sense of the word William Claiborne was a viking for he had spent a large portion of his life, after he came to the New World, sailing about in the bays and harbours of the Chesapeake. According to his detractors, he was a viking likewise in the usual significance of the word, for he was called a pirate. It appears that there is more than coincidence in the fact that this man who came from England along with contemporaries selected this manner of life as opposed to the quiet life of Jamestown. We see in his nature a decided roving instinct, and to some extent, a predatory one. It is not improbable that he was the creature of an atavistic impulse inherited from his forebear Rolf the Norman. He must have loved the salt breezes of the Chesapeake and in his nostrils was the breath of the north winds.

(19) William Charles Cole Claiborne.[1]

"William Charles Cole Claiborne was born in Sussex County, Virginia, in 1775, son of Colonel William Claiborne, of King William County, Virginia, and Mary Leigh his wife, daughter of Ferdinand Leigh. His education was a liberal one and he was well prepared for entrance to the legal profession. Having been duly admitted to the bar, he took up his residence in Nashville, Tennessee, where he followed his profession with an extraordinary amount of suc-

[1] Virginia Biography, vol. ii.

GOVERNOR W. C. C. CLAIBORNE OF LOUISIANA

Photographed from a painting in possession of Major W. C. C. Claiborne

cess. He was soon appointed territorial judge, and assisted in the framing of the State constitution in 1796. As a representative of the Republican party he was elected to Congress in 1797, serving from March 23, 1797, to March 3, 1801. He was appointed Governor of Mississippi in 1802, and in the following year, in association with General James Wilkinson, became a commissioner to take possession of Louisiana when it was purchased from the French. After the new government had been well established he was made Governor in 1804, and when the province became a State he was elected to the same office by the people. The Republican party of the new State chose him as their representative in the United States Senate, but he died in New Orleans, Louisiana, November 23, 1817, before taking his seat in this body. He was brother of General Ferdinand Leigh Claiborne."

The photograph of William Claiborne shows a face of rare intelligence, refinement, and spirituality. His achievements before his death were remarkable and places him as a public man high in the roll of distinguished citizens of America. His life is entitled to mention to which justice cannot be done in these pages. Without a doubt he stands head and shoulders above all the other men of his name. While there was nothing dramatic about his career personally, as there was in the case of Pat. Cleburne, he lived in dramatic times and helped to fashion the history of his country. He married twice amongst the Creole families of New Orleans, and from these marriages a number bearing his name have descended. Major W. C. C. Claiborne of New Orleans is his grandson, inheriting his name. Although the Gover-

nor was essentially English himself, his descendants in New Orleans are distinctly of the French type. The writer had the fortune to marry his great-grand-daughter (the daughter of Major W. C. C. Claiborne) and takes pride in the fact that his son likewise is descended from that distinguished representative of the family.

(20) General Patrick Ronayne Cleburne.

"General Patrick Ronayne Cleburne was the second son of Dr. Joseph Cleburne, a prominent physician and philanthropist of Cork, by Mary Anne, daughter of Patrick Ronayne, Esq., of 'Annebrook' and 'Great Island,' in the same county, and was born at his father's country place 'The Grange,' Ballincollig, on St. Patrick's day, the 17th of March, 1828. His mother's family (the Ronaynes) settled in Ireland in the beginning of the twelfth century. Maurice Rouan, or Ronayne, the ancestor of the Ronaynes d'Laughtane, Doughdoyne, and Annebrook, obtained from Edward IV. a 'grant of the rights of Englishmen,' the original of which is still preserved in the family. From this genial race of fox-hunting country 'squires Cleburne derived a dash of wit and humour and that impulsive valour which made him the idol of his troops.

"Physically, General Cleburne was six feet in height, straight of figure, broad of shoulder, and of slender build, but, despite all these favourable impressions, was rather ungainly than graceful in general appearance. There was a directness and angularity about him that was the foe of grace and seemed oftener to be akin to awkwardness. His face was pale and sometimes stern, but in his large grey eyes there was always a gentle, musing light; and as they flashed in

MAJOR-GENERAL PAT. CLEBURNE, C.S.A,

Photographed from a painting in possession of Major W. C. C. Claiborne

humour or grow dark in passion they clothed the whole man with a beauty of their own. . . .

"Modest and reserved in his manners and bearing, he gained the respect and good-will of his comrades, and the confidence and esteem of his officers. He entered thoroughly into the spirit of his work, and in this practical and invaluable school of the soldier he mastered the minutiæ of the profession, and gained experience that stood him in good stead in the crucial ordeals of our Civil War. In the ranks of H. M. Forty-first Regiment he learned the wholesome rules of regularity and prompt obedience."

In speaking of H. M. Forty-first (in India), he said: "'I was prouder of my corporal's commission than that of a major-general.'

"While in the Confederate army, in a conversation with Colonel Freemantle, of the British army, he alluded to the useful lessons he had learned, and pointed, with a laugh, to the white facings of his general's uniform, which, he said, his Forty-first experience enabled him to keep cleaner than any other Confederate general. The Forty-first Regiment wore white facings, and so did the generals in the Confederate army.

"An incident lost, for a while, Cleburne's newly acquired honour of a corporal's commission. His regiment was ordered out for drill with knapsacks, and as he had been unwell for several days and did not feel equal to the task of carrying through the tiresome drill a knapsack weighing between thirty and forty pounds, he substituted a pillow for the several contents, and thus went on parade. His consternation may be conceived when he heard the command given, 'Inspection knapsacks!' But there

was no help for it, the pillow was discovered and he was reduced to the ranks. This reverse, instead of depressing, stimulated his energies, and he quickly regained the promotion lost by his luckless mishap. His health, which had greatly improved under a regular course of drills and exercises, began to give way under excessive devotion to duty, and from exposure on guard he became afflicted with acute rheumatism."

Subsequently, Cleburne quit the English army although his Captain remonstrated with him strongly and assured him that if he remained he would certainly win a commission. Nevertheless, he left and at the age of twenty-one he sailed from Queenstown in 1849 on the bark *Bridgetown* for the New World. After casting about for some time, he finally settled in Helena, Ark., where he first was engaged in the drug business, but ultimately giving that up, studied law and in 1856 formed a partnership under the name of Alexander & Cleburne. According to Buck (*Cleburne and His Command*): "At no time in his life did he display more heroism than in 1855, when Helena was visited with a scourge of Yellow Fever. The public generally fled in panic, but Cleburne remained, going on daily rounds among the sick, nursing them, and soothing as far as possible the grief of the living and the last hours of the dying. His unselfish devotion at this time endeared him to many hearts."

In 1861, Pat. Cleburne was amongst the first citizens to tender his services to the Governor of Arkansas to capture the United States arsenal at Little Rock. He was serving at that time as a private in a company called "The Yell Rifles" and later he was made Cap-

tain in the State service. From this humble beginning, he became a Major-General in the Confederate States army where he served with distinction and his name has gone down to deathless glory in the records of the Confederate army in the Cause which the southern people loved and lost in the land where they were dreaming. To those who desire a full knowledge of his life and his military career, the book just referred to is commended. There have been a number of fanciful stories written about the manner of his death at the battle of Franklin but Captain Buck of his Division has taken particular pains to discover the real facts. The following excerpt from a communication of General Govan describes his death as follows:

"General Cleburne was not killed while attempting to leap his horse over the Federal entrenchments, as some have said. The manner in which he met his death was about as follows, and from personal observation and credible statements of others I believe these to be about the facts of the matter: General Cleburne had two horses killed under him in the attack on Franklin. I was very near him when his first horse was killed. The impetus at which he was moving carried the horse forward after his death wound, and he fell almost in the ditch on the outside of the entrenchments. One of the couriers dismounted and gave him his horse, and while in the act of mounting, this second horse was killed by a cannon ball fired as well as I remember from the gin-house. General Cleburne then moved forward on foot, waving his cap, and I lost sight of him in the smoke and din of battle, and he must have met his death in a few seconds afterwards. All of this occurred in the intersection of the pike, and his body was found

within twenty yards of where I saw him last waving his cap and urging his command forward. Never in any attack during the war did troops display greater gallantry—not Pickett's division at Gettysburg, nor the Old Guard at Waterloo—than when the heroic commander of the Arkansas division fell, sword in hand, near the entrenchments in that desperate and ill-fated attack on Franklin."

As Buck says further: "A ranciful story gained credence and a poem was written based upon it, that Cleburne on the morning of the battle, noticing that one of his officers was barefooted, pulled off his boots, and insisted that the captain should put them on, remarking that 'no Confederate soldier shall walk with naked feet while I ride fully shod.' This story is pure fiction and absurd on its face. No doubt his generous impulses would have prompted him to this, but his sense of duty would have forbidden his so disqualifying himself for its performance. The only foundation for the alleged incident was that Cleburne's body was found in stocking feet, it having, as before stated, been robbed of boots."

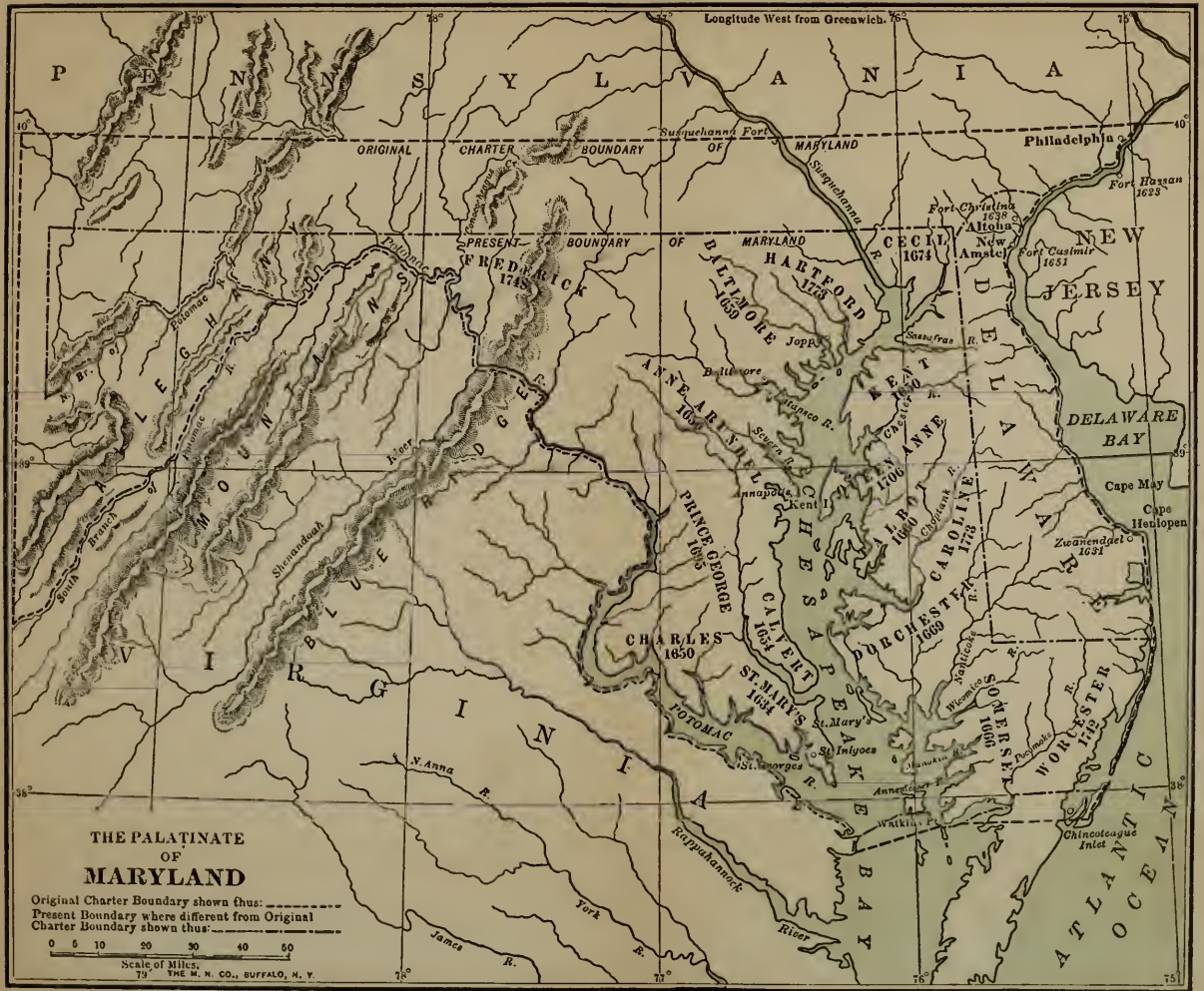
Intrepid courage and cold nerve were amongst his most marked attributes. He was the idol of his soldiers and as one writer says of him, the men in his regiment "seemed to be afraid to be afraid where he was." Illustrative of his cold nerve the following is written by Buck:

"Of firm convictions, strong personality, and unswerving loyalty and devotion to his friends, this last trait came near causing an early termination of Cleburne's career. One of his associates became engaged in a controversy with a man bearing the reputation of a 'dangerous man.' Cleburne had no

interest at stake, but, Irishman-like, espoused the cause of his friend 'in a quarrel not his own,' drawing upon himself the wrath of the desperado, who publicly swore vengeance against Cleburne. Cleburne was well known to be quick and expert with the pistol and it was equally well recognized that a front attack upon him would be extremely dangerous. While Cleburne was walking the street of Helena, without warning a dastardly attempt to assassinate him was made. A shot was fired from a doorway he was passing, the bullet entering his back and going entirely through his body. Desperately wounded as he was, his will power enabled him to draw his pistol and kill his assailant before he himself fell to the side-walk. His recovery was despaired of, but his indomitable will to live greatly, if not entirely, tended to his recovery."

He was known as the "Stonewall of the West" and his name is honoured and revered throughout the South and West. In Arkansas a day is set apart known as Cleburne's Memorial Day. It appears that he and General Ferdinand Leigh Claiborne were the only two of the name who ever wore the general's star. He and William Claiborne evidently derived their courage, tenacity, and aggressiveness from the same source.

The first interment of Cleburne's body was at Rose Hill near Franklin. Years afterwards the remains were claimed by the State of Arkansas and removed to Helena, where a monument was erected over them by the Ladies' Memorial Association. (Buck.)



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